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SELECT COMMITTEE ON RETAIL STORE HOURS

ORGANIZATION

WEDNESDAY, FEBRUARY 4, 1987



SELECT COMMITTEE ON RETAIL STORE HOURS

CHAIRMAN: O'Connor, T. P. (Oakville PC)

VICE-CHAIRMAN: Guindon, L. B. (Cornwall PC)

Barlow, W. W. (Cambridge PC)

Bernier, L. (Kenora PC)

Ferraro, R. E. (Wellington South L)

Knight, D. S. (Halton-Burlington L)

Philip, E. T. (Etobicoke NDP)

Reville, D. (Riverdale NDP)

Sargent, E. C. (Grey-Bruce L)

Shymko, Y. R. (High Park-Swansea PC)

Smith, E. J. (London South L)

Substitution:

Smith, D. W. (Lambton L) for Ms. E. J. Smith

Clerk: Mellor, L.

Staff:

Richmond, J., Research Officer, Legislative Research Service



## SELECT COMMITTEE ON RETAIL STORE HOURS

CA 20N  
XC 2  
-87R27Wednesday, February 4, 1987

The committee met at 3:30 p.m. in committee room 1.

## ORGANIZATION

Mr. Chairman: I note there are representatives from all three parties. Welcome to your duties on the select committee on retail store hours.

May I commence by welcoming and indicating how fortunate and blessed we are to have as our clerk of the committee someone who is well known to all of us and who has done a good job in the past, Lynn Mellor. She will be assisting us throughout the proceedings, or most of them. She has advised me today she will have to substitute on some occasions.

We will also be ably assisted by Jerry Richmond, who is hovering around here behind me, from the legislative research service. He will be doing certain research tasks and summarizations of briefs and information received by us, I believe on a weekly basis. Welcome and have a seat.

We are open for business. The first order of business I suggest should be a motion for transcripts, if somebody is prepared to make that motion.

Mr. Barlow: I am prepared to move that.

Mr. Chairman: Mr. Barlow moves that unless otherwise ordered a transcript of all committee hearings be made.

Is there any discussion?

Mr. Shymko: Do I understand this will be a bilingual transcript?

Mr. Chairman: We are going to discuss that a little later. There are some circumstances in which we are going to be suggesting there should be bilingual translation.

Mr. Shymko: In this motion we accept the possibility of having translation that will involve a bilingual transcript?

Mr. Chairman: Yes. It is broad enough to include that, and we will define later under what circumstances we think it necessary to include bilingual translation. Is there any further discussion?

Mr. Philip: I think we are dealing with some basic concepts. All of us will be listening intently to the testimony. Is it necessary to go to the expense of bringing transcription service on the road with us in all instances? I wonder about the cost.

Mr. Chairman: Can I ask you to hold down that question and discussion? That is on the agenda for discussion after we do a few routine and necessary preliminary matters. It is a valid question. We will get to it.

Motion agreed to.

Second, can I ask for a motion for the election of a vice-chairman of the committee?

Mr. Guindon: Don, are you supposed to volunteer?

Mr. Chairman: How about it, Mr. Knight? Do you have a motion to make?

Mr. Knight: Mr. Knight has no problem at all in recommending the highly recommended Mr. Guindon as vice-chairman of the committee.

Mr. Chairman: Any discussion on that? Any other nominations? All in favour?

Motion agreed to.

Mr. Chairman: Mr. Guindon is our vice-chairman.

The next routine order of business is the appointment of a steering committee of one person from each party whom I would ask to be available after this meeting and from time to time during our deliberations to assist us with logistical matters, travel schedules and that sort of thing.

May I hear suggestions or nominations from each party? I can tell you that I have had discussions with each of the parties and I believe there was a suggestion that Ms. Smith, who is a permanent member of the committee and who is not here today, will be representing the Liberals. Is that a correct understanding?

Mr. Knight: That is my understanding.

Mr. Chairman: Okay, and the vice-chairman for the Conservatives. Is that satisfactory?

Mr. Guindon: I do not mind.

Mr. Chairman: Mr. Philip, are you representing the New Democratic Party?

Mr. Philip: All the NDP members who are present in this committee have caucused and unanimously agreed that I should serve.

Mr. Chairman: Any discussion on those nominations? All in favour?

Motion agreed to.

Mr. Chairman: On scheduling, we have some dates for discussion which I believe have been circulated to each of you. These dates were arbitrarily proposed and arrived at by the clerk and myself after some discussion as to the availability of her time and of rooms here in Toronto and of staff and facilities while on the road, keeping in mind there are some 10 or 12 committees of the House that have to be accommodated for the various duties over the break after February 12.

I will be suggesting, by way of a proposed agenda, that which you have before you, which is open to discussion and amendment, but which you will notice involves three days of sitting in Toronto. For obvious reasons, the emphasis is on Toronto because of its size and the number of delegations we



might expect from the Toronto environs. It thereafter involves three-day stays in the three other main areas of the province--central and west, central and east, and northern Ontario.

We have attempted to diversify ourselves within each of those particular areas, to visit cities of different sizes, cities involving tourist areas and nontourist areas and cities and towns that are adjacent to our borders with the United States. We feel the influence of the right of people in New York state to shop on Sunday might have some influence on the feelings, thoughts and opinions of the people along our borders. We tried to include all areas and the variety of Ontarians that we are likely to hear from.

Is there any discussion on that proposed agenda as to whether it might be improved upon?

Mr. Shymko: I am looking at northern Ontario and I am surprised that Sudbury is not listed. I understand the proximity of North Bay to Sudbury is such that you could choose one or the other. It may have been debated whether to choose Sudbury as a place to have our hearings and have people from North Bay come in delegations to Sudbury.

I think Sudbury is important. Sudbury is designated as a francophone area, at least a heavily bilingual area. The only area I can see now that would warrant the use of French is Ottawa. We cannot ignore the Sudbury region and the city of Sudbury itself and its population from being listed for northern Ontario. I wondered why Sudbury was not put on.

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Mr. Chairman: To a certain extent, some of these locations were chosen because of availability of adequate facilities in that city. I am advised by the clerk that in Sudbury there is a difficulty obtaining a sufficiently large location for the hearings for one day.

I am not deliberately avoiding the cities we went to last year, but another factor, I must admit, that went into the decision to a certain extent was that the group we took--

Mr. Shymko: Who is "we"?

Mr. Chairman: "We" is the task force of our party, which did a tour similar to this last year. It was considerably smaller than this select committee, of course. We went to Sudbury last year. We did hear from a large number of people from Sudbury and we did not manage to get to Thunder Bay. I do not know whether that should be a factor in our deliberations, probably not.

Mr. Shymko: You pointed out that London, Ottawa and Thunder Bay were indeed places where you went with the Tory task force. Notwithstanding where one party's task force has gone, I do not think that should have any bearing on the importance of travel of a select committee of the legislature.

I again point out the bilingual nature of the area. Many organizations would probably see this as a reason and it would be unexplained in many peoples' minds why we would ignore Sudbury. I just came back from Sudbury this weekend. I stayed at the Holiday Inn. I know there are facilities at the Holiday Inn, though maybe not as appropriate as in Toronto, where we could hold meetings.

There is also Science North in Sudbury, which I think has seminar rooms and other rooms that could be used. I do not know whether the clerk has checked that, but I just cannot fathom that there is no place for conventions. Many committees in the past have gone to Sudbury: the standing committee on the Ombudsman and the standing committee on social development. The clerk is well familiar, having herself travelled to Sudbury. I have difficulty in eliminating Sudbury from the list of cities, municipalities and areas.

Mr. Philip: If we wanted to add Sudbury, could we not do it in the same day as North Bay, doing North Bay in the morning? We are not talking about a very great distance and there are regular Air Canada flights along that Winnipeg route.

Did the Conservative task force go to the Lake of the Woods area, which would be a tourist area different from Niagara and Windsor?

Mr. Chairman: Yes, we went to Kenora. You are right. It is a distinctly different tourist area to Niagara Falls or Niagara-on-the-Lake.

Mr. Philip: I am wondering if a reasonable thing might be to look at combining it. If we are at Thunder Bay, it is on the direct route to Kenora, and that might be an addition.

In speaking to the House leaders of at least two of the caucuses, my understanding was that they would very much prefer if we could do our work in three weeks rather than four. In particular, my understanding was that they were not likely to give us the week of March 2. To me it would be preferable to do an extra day each week, in other words a four-day week, and eliminate a week in there.

Mr. Shymko: They are four-day weeks already, except for central and western Ontario, which is five, and Toronto, which is three.

Mr. Philip: I am wondering if we could not perhaps do a longer week in the first week and do Niagara Falls and Cambridge then. Then perhaps we could tack on London and Windsor to the last week. It is just that if we ask for four weeks, I suspect we are not going to get them. There are tremendous pressures. The Ombudsman's committee is in exactly the same position.

Mr. Shymko: I explained that the Ombudsman's committee is meeting on April 6 and 13. I do not see the conflict of the time.

Mr. Philip: I am saying the general conflict of all committees is such that we are all being asked to cut back wherever possible. In talking to some of the people who are on different committees, I believe the feeling seemed to be--and the House leaders expressed this--that if we could possibly cut out the week of March 2 and work it some other way, we could perhaps do Barrie, for example, on the first week. That would be another possibility. Barrie is only a bus trip away.

Mr. Chairman: I am advised by the clerk that during that week there are a number of committees meeting in Toronto. The House leaders were apparently quite happy to have us on the road that week.

Mr. Philip: On March 2?

Mr. Chairman: Yes.



Mr. Philip: What I am saying is that we could eliminate that week entirely by taking Barrie and perhaps putting it into the first week. You have more experience with this. You were the first guys in doing the same thing. Some people may feel, quite reasonably, that they made their views known to the Conservative task force, and I hope the Conservative task force will have an opportunity to give us a fairly good briefing on what it found in that first week.

I do not see us sitting more than is necessary. It is going to cause tremendous pressures on all of the caucuses. If we could eliminate it by combining that week of March 2, it would be tremendously helpful to those of us that are on three committees as it is.

I had 10 days off last summer with all the committee work. Other committees which I thought were pretty important were being cut back; so maybe we can oblige the House leaders by working out a three-week schedule rather than four weeks.

Mr. D. W. Smith: With the agenda before us, do we leave on a Sunday night for the first place? How do we attack this with the agenda before us today? Does the committee leave on a Sunday for the first place?

Clerk of the Committee: What I had been looking at, in trying to put this together over the last couple of days, is to leave here early Monday morning, do Niagara Falls and stay there overnight, drive to Cambridge and do it in the afternoon, go on from Cambridge to London and do it the next day, leave London that evening and go to Windsor, do Windsor the next day, which will take us to Thursday, and return Thursday night. That is the way I saw that week. That would be by bus and flying back from Windsor.

Mr. D. W. Smith: So you are planning a four-day week. Most other committees are planning four-day weeks as well. Is that right?

Clerk of the Committee: Most are, using Fridays as backups if absolutely necessary. It has been the routine in the past. In the other committee I am involved in, they are using the Friday as a backup if they need it.

Mr. Guindon: I certainly see Mr. Philip's problems with the full week. I would also like to voice my opinion that it is quite a drive to have a five-day week on committees for out-of-town members. From outside of Toronto, we would have to drive home. We also have constituency work. I feel quite at ease with the way it is now. I am ready to debate it more.

Mr. Philip: All I am saying is that on February 23 it is no more work for you to fly into Toronto and then go on to Niagara Falls. You would be there in the evening before the Sunday.

Mr. Guindon: When I do that I would have to leave the day before.

Mr. Philip: It seems to me we have a very loose schedule and all we are talking about is three cities in that week of March 2. We have only a three-day week in the first week. It seems to me we could easily take in Barrie that first week and it would only give us a four-day week.

If we look at February 23, we are talking about Niagara Falls and Cambridge on the same day, are we not?

Clerk of the Committee: No. We are talking about driving from here in the morning to Niagara Falls, which means you could have meetings in the latter part of the morning and afternoon and stay over in Niagara Falls. Then you could leave there in the morning and drive to Cambridge, have your meetings in Cambridge and drive on to London. You could have your meetings the next day, which would be Wednesday, in London, leave London and go to Windsor, have your meetings all the next day in Windsor, and leave Windsor on Thursday night and come home.

Mr. Chairman: Fly home.

Clerk of the Committee: Fly home. You will be travelling by bus on the way there and returning by air.

Mr. Shymko: So we are returning to Toronto by bus from Windsor.

Mr. Chairman: No, by air.

Mr. Philip: Why do we need three days in Toronto the first week? The first day I would like to hear from the Conservative task force. That is reasonable. I want to find out what they have already done rather than reinvent the wheel.

Mr. Chairman: I can tell you that in terms of the requests for time, there will be considerably more requests for the right to speak to us and present briefs than we will have time to hear. That will prevail in every city we go to. We will be picking, choosing and asking groups to double up and asking unions particularly to have their central organizations, rather than each of their locals, present a brief. That is the sort of thing we are going to be into anyway. I do not think we will have any trouble at all filling up three days in Toronto, especially if we use one day to review last year's work.

Mr. Knight: I think it is advantageous for the committee to discuss what communities we should travel to. In the interest of making sure we do justice to the topic, we want to travel to as many communities as possible. Unfortunately, we are restricted because of the amount of time the House leaders are going to allow us to sit.

Inasmuch as there may be some discussion among the House leaders to cut us back to three weeks, I wonder if, having taken the views of the committee, perhaps it is something the subcommittee, taking into consideration that maybe there are some other different kinds of communities we should go to because of the kinds of retail trade they have, could finalize and prioritize which ones we should go to.

I wonder if the clerk or yourself have considered when we would be putting together the results of our hearings. Being a select committee, would we have to have a final report put together before the House returns, or could we arrange for additional meeting time in the next session?

Clerk of the Committee: Yes, additional meetings.

Mr. Chairman: That was the plan.

Mr. Shymko: I have no problem with the proposed agenda. That is fine. If Mr. Philip has a problem with the week of March 2, I would suggest that if we were to start on Monday morning we could cover about five witnesses



in the morning, at least five in the afternoon and seven in the evening sitting. We would have about 15 witnesses we could do in a day if we really wanted to. To be in Toronto on Monday and Tuesday would be sufficient. We could even eventually spend the morning on Wednesday and go to Barrie on February 18. Then we would have to add Thursday and Friday and we could cover Ottawa and Kingston and eliminate that entire week.

Mr. Philip: That is not helping because, basically, we are going home with you.

Mr. Shymko: We would have to sit on Friday. We would have to be in Kingston or Ottawa on Friday.

Mr. Philip: I have seen the draft the House leaders have prepared. They are not prepared to give us four weeks. That is the bottom line.

I think the suggestion was made in different words, why do we not have a subcommittee prepare two schedules, one that would include the week March 2 and one that would not? Having a whole committee worry about that is difficult.

Mr. Shymko: I have a suggestion I think will work.

Mr. Philip: Whatever the House leaders approve, we can then run with.

Mr. Chairman: Why do we not leave it unless anyone has anything further to add? We have heard the suggestions.

Mr. Barlow: I would be willing to agree with what Mr. Philip suggests and sensibly work it out. We are sitting here talking about it. Mr. Philip has apparently seen the overall schedule. I have not. We are batting our head against the wall here. We do not know how it is going to dovetail in. It might be that we will have to take a week off and come back a week or two later. Whatever can be worked out, we should cover as many centres as possible and as efficiently as possible.

Mr. Chairman: Perhaps we can discontinue this discussion now and leave it to the subcommittee, which is meeting immediately after this meeting.

Mr. Barlow: We almost have to meet with the House leaders and know what the House leaders are going to come up with.

Mr. Chairman: We do have access to the general schedule and we can help work around that. We will take into account the comments that have been made and see what we can do at the meeting following this.

The next item on the business is an advertisement, a draft ad which I think is in your material, two or three pages down. That is the general wording of a general ad which we suggest run in-- we can discuss that in minute, after we discuss the wording. To be inserted in the blank area. I have drafted the following, again subject to your approval:

"Specifically, the select committee on retail store hours will meet to review the issue of Sunday shopping and retail store hours." That is already in there. "Specifically, the committee will be addressing necessary amendments to the Retail Business Holidays Act in respect of Sunday and holiday openings, exemptions, employee protection and penalties." We found last year those were the four main areas of concern to most of the people who addressed us.

Any thoughts on that wording.

Mr. Shymko: Obviously, you would be flexible if some brief addresses an issue that somehow is related but may divert into another area.

Mr. Chairman: Yes, of course. If that is satisfactory, then we will run that ad. The next question is where. The cost of running the ad once in all the dailies in Ontario is \$16,000 plus or minus. The cost of running it in each of the weeklies in Ontario is double that.

The suggestion I would be making in preparation of the budget is that we use the dailies only.

Mr. Shymko: I would like to make a suggestion to use some dailies that have cheap rates and some weeklies, in the nonofficial language, the ethnic press. I do not know what the regulations are but it seems on issues such as this, in the retail business there are a lot of businessmen who are of various ethnocultural background. It may be worth it, unless there is something to prevent advertising in some of the major ethnic papers. I refer specifically to either the Italian Corriere Canadese or one of the main Portuguese or Greek papers. It affects basically Metropolitan Toronto where the information would be going, but these papers are read throughout the province. Unless there is a difficulty in making a selection, I would urge that we include some main line ethnic press papers.

Mr. Chairman: Any other discussion?

Mr. D. W. Smith: Are you set to any budget that you have to live with? You said the dailies would be \$16,000 and the weeklies another \$16,000.

Mr. Chairman: No. We are not yet set to a budget. One of our functions is to prepare a tentative budget and present it to the House leaders for approval. We then present it to the Board of Internal Economy.

Mr. D. W. Smith: I may have to ask this of the clerk, but normally do you advertise in dailies as well as weeklies?

The Clerk of the Committee: We normally advertise in dailies. We do not advertise in weeklies.

Mr. D. W. Smith: Normally.

The Clerk of the Committee: Normally. One of the reasons is if you want it to be consistent with dates, in a lot of cases, with the weeklies you have to have the copy to them earlier. It takes two weeks from me to publication. If we can get a guarantee that it can run the same week, fine. Otherwise, you may end up in a situation where it may be running a week later and it may be too late for those people to know we have been in their community--maybe, not always, but it could be. It depends on when their cutoff date is. If they publish on Monday and they get the copy on Friday afternoon, the chances are you are not going to get in that week. You will not get in until the following week.

1600

Mr. D. W. Smith: But you only advertise once, do you not?

Clerk of the Committee: We only advertise once.

Mr. Philip: One of the things I think gets the message out is a double press release: one to the various radio stations, including those that operate in different languages as well as the two official languages, and another one a couple of days before we arrive in the town or city advising people. Also, we may want to have something in the press release that will go out under our name, I assume, or it could go under the clerk's name.

If we really want submissions, it should indicate that oral submissions are acceptable. Some of the businessmen may be very successful businessmen, but they are not used to making formal presentations to groups like this, and it can be intimidating. Press releases often can get out the message. The local radio stations are always anxious to run with this kind of thing if we are coming into their town.

Mr. Guindon: In regard to advertising, especially in the weeklies, in French we have only one daily across Ontario and it is in Ottawa. I think we should give consideration to advertising in French weeklies, especially in the towns where we are going: Toronto, Windsor, Ottawa, which has a daily, North Bay, Sudbury, if we think of going to Sudbury, Hawkesbury and Cornwall. We do not have a French daily paper in that area, but we have a weekly French paper.

Mr. Chairman: These are good suggestions. In addition to paying for a daily ad, there are other methods of communicating with the people. A press release, if it did go out, would have to go fairly soon.

Mr. Philip: Send it out now and then another one a couple days before.

Mr. Chairman: It would have to be clear that we would be inviting people to contact the clerk in order to get on the list.

Clerk of the Committee: It could be virtually the same as the wording for the ad.

Mr. Chairman: Virtually the same as the ad. There is the legislative TV, which we perhaps can use for some ads.

Mr. Philip: It is not the same formal kind of thing.

Mr. Chairman: There is the ethnic press and the ethnic radio.

Mr. Philip: Do it in journalesque rather than legalese.

Mr. Chairman: Can I have general agreement among the committee that we advertise once in every daily, that we do not now ask for funds for every weekly and that we plan a campaign through these other media which would not cost any money if there were press releases to radio stations and weekly newspapers. If we used the legislative TV, I presume there is no cost involved there. Am I correct?

Clerk of the Committee: Right.

Mr. Philip: Is there a list of locations that should be invited?



Mr. Chairman: Yes. There is a list that was compiled last year that might be circularized, but perhaps that should be left up to the individual members.

Mr. D. W. Smith: I am sure there are a lot of small communities that would like to make their comments known.

Mr. Philip: That is kind of a hit and miss.

It seems to me there are certain groups that are bound to have an interest. One is that we want to send a letter to the municipal councils in case they wish to make a presentation. We will want to send them to the boards of trade, if they exist, or the chamber of commerce in each area we are going into. If there is an ecumenical association or religious association, it may have an interest in making a presentation, and we will want to send it to the labour councils in each area. Is that the list that you prepared for the Conservative task force?

Mr. Chairman: Generally. It included some of those. I do not know that it is co-ordinated and organized. Perhaps at the subcommittee meeting, you could assist us with identifying those names again and where we might be able to get those up-to-date lists of all those associations. There seems to be a considerable amount of work involved.

Mr. D. W. Smith: I would sooner see you go with the weeklies, if you are going to have to go over a list, as Mr. Philip has just suggested. To me, we would cover more people with the weeklies.

Mr. Philip: What it means is five or six letters in a town. Five or six letters in each town does it.

Mr. D. W. Smith: How much do five or six letters cost?

Mr. Philip: A heck of a lot less than an ad in a newspaper.

Mr. Chairman: Okay. Could we leave that item, as to exactly whom we would contact and how, to the subcommittee?

Mr. Guindon: Could I just make another point to try to convince you that the idea is good to operate with a press release in the weeklies, but do not forget that the only time the weeklies can make any dollars or any profits is through advertising. They will probably not print your press release in a weekly, because they are very adamant about it. An example is the lottery corporation. You will not see a weekly carry the lottery numbers, because the dailies are paid for it. I am trying to say it is pretty important that we think about the weeklies.

Mr. Shymko: I refer back to the weeklies again. The Sudbury Star may have a clientele and readership in Sudbury, but the Northern Light, for example, which is a weekly, covers a very wide area in northern Ontario. We should not miss some of these important weeklies in certain parts of the province.

Mr. Barlow: I thought that was a brewery, Northern Lite.

Mr. Shymko: Northern Light.

Mr. Barlow: Oh, I see.

Mr. Chairman: Is the suggestion being made by Mr. Smith that if we did advertise in all the dailies and all the weeklies once, then we would forget compiling the lists of these other groups and associations and the other methods we attempted because of the work involved?

Mr. Shymko: I tend to support Mr. Philip on his views.

Mr. Philip: I think a direct letter to each of the city councils of municipalities and to each of the labour councils and the chamber of commerce is going to get more results. Do not forget that the groups in these places also read the Toronto Star and the Globe and Mail. We are going to have ads in those papers, and they have a clipping service.

Mr. D. W. Smith: I think we can leave that up to the members and go with the weeklies and the daily paper once.

Mr. Barlow: There are only 12 members on the committee.

Mr. D. W. Smith: Yes, but they can pass the word around to their other colleagues.

Mr. Chairman: Okay, hang on. There seems to be a general consensus that we do the advertising in the dailies and the weeklies. Mr. Richmond has advised me that he, with the help of the clerk, will attempt to compile the lists Mr. Philip suggested. They are easily obtainable and can be done, and I assume they can.

Mr. Philip: Every committee I have been on has done that.

Mr. Chairman: We will draft a letter in nonlegalese, as Mr. Philip suggested, including the same information that is in the ads.

Mr. Philip: In journalese.

Mr. Chairman: Is everybody agreed on that?

Mr. Shymko: Agreed, except for the list. Again, I am going back to minorities, an area about which I am very sensitive. There are some 12 umbrella organizations of various ethnic groups in Ontario and those 12 groups should receive notice.

Mr. Chairman: Perhaps you could speak to our research assistant and make sure those names are on the list.

Mr. Shymko: I would be very glad, most pleased if that would be done.

M. Chairman: Could we move on to the next item then?

Simultaneous translation: When we are sitting here and if we are able to obtain room 151, the facilities are readily available for simultaneous translation. If we are not in room 151, the cost is approximately \$2,000 a day for staff and equipment. My suggestion is that unless we are dealing with a number of, say, two, three or four groups that would require the simultaneous translation, that should not be necessary in the normal course of our hearings around the province. Any thoughts on that?



Mr. Guindon: I do agree that we should not have to carry these people all around the province with us, but I want to make sure that the committee is aware we would not want to be criticized for not doing it in one place, especially in Ottawa.

Mr. Shymko: Absolutely, and Sudbury.

Mr. Guindon: The task force on liquor laws--I forget the name of it--came to Cornwall, brought in the whole gear and not one submission was in French. I thought it was a waste of money, but if we do not do it, we may be chastised. I would leave it up to you as chairman of the committee.

Mr. Philip: There are those of us who can understand French. We have enough members on the committee from all three caucuses who could operate in French.

Mr. Shymko: We could, but the rest of the members would like to understand what they are saying when they are making their submissions.

1610

Mr. Shymko: We would, but the rest of the members would like to understand what they are saying when they are making their submission.

Mr. Guindon: I dare say that we will not have a French submission, even in Ottawa.

Mr. Shymko: Yes, we will.

Mr. Guindon: Unless we go looking for it, but I doubt it.

Clerk of the Committee: On Bill 30, as Mr. Guindon knows, we were sort of all over everywhere. If we had requests, if we detected even from the name of an organization or if there was any indication by an accent on the phone that there might be a reason to have simultaneous translation, we asked the person which language he would prefer to make his presentation in and told him he could do that. That way, if we had three or four, we could block them all in one morning or at one time and have the facilities available for them.

Mr. Philip: Can we add that to the ad? If we put that in the ad, then it clearly specifies that we are willing to operate in both languages.

Mr. Shymko: You are opening up a can of worms, because then you must be ready with all the equipment if someone appears in Windsor.

Mr. Chairman: No. The plan would be that if we got a substantial enough number of requests for the translation services, we would schedule those particular groups in one place, Toronto or Ottawa perhaps.

Mr. Philip: All you have to do is add a sentence that says that any groups which require simultaneous translation should advise the clerk at the time of indicating their interest to appear.

Clerk of the Committee: In either official language.

Mr. Philip: In either official language. I would find it very difficult to operate in anything else.

Mr. Chairman: Could we do it that way and then leave it to the subcommittee to schedule official translation, when, where and as necessary?

Mr. Guindon: If we are going to advertise it in French in the dailies and all the weeklies, we do not have to put in the English papers that we are going to provide French services.

Mr. Philip: Except that in my experience, an awful lot of people who are completely bilingual read English newspapers. They may want to appear and read about it in the Toronto Star or the Globe and Mail and may not have picked it up in one of the French-language newspapers. We pretty well have to offer it in both.

Clerk of the Committee: There are 13 French weeklies across the province in which you would be advertising in French, as well as Le Droit in Ottawa.

Mr. Shymko: My only concern is that in Ottawa we should definitely make all the arrangements to have simultaneous translation equipment.

Mr. Chairman: Yes. The next item is translation of transcripts. That cost is quite substantial. It is about \$8,000 a day or 25 cents a word. My suggestion, again, is that perhaps it is not necessary to translate every one of our transcripts of our hearings, since we will be obtaining weekly summaries of same prepared by the research staff.

There is a simultaneous translation service available for those who wish to attend the hearings. They can hear what is said in either language at the Ottawa hearings at least and perhaps at one of the Toronto hearings. Is there any further comment on that?

Mr. Philip: Did we agree that we need transcripts when we are on the road?

Mr. Chairman: No, that is the next item of business.

Mr. Philip: That is the first step.

Mr. Chairman: Perhaps it is.

Mr. Philip: Why decide to translate something if we are not going to have a transcript? I would strongly urge it with most committees. If we were dealing with something as complicated as Astra Trust or Argosy, we would not get away without a transcript. We are going to be dealing with people making certain arguments, some philosophical and some economic. We have a researcher on board, and all of us can take notes. We have completely open meetings, with the press covering them as well. I really wonder about the expense of having a transcript, when we can get together and write a summary of what we heard.

It may be necessary for us to caucus after a presentation has been made and say: "What were the key ideas? Let us make sure we have them all down." It is extra work for us, but it will save a lot of money.

Mr. Chairman: We are talking only about transcripts on the road, of course, and the approximate cost of those.

Mr. Philip: Yes. The approximate costs are here. When we are debating other things, I wonder about it.



Mr. Chairman: The approximate cost of that is \$6,000 a day; so there is a lot in what you say.

Mr. Shymko: I am still confused on the transcript of a presentation or a brief which is, for example, made to this committee in French. Would the Hansard copy have only the French version with no translation?

Clerk of the Committee: If it were here, you would get the French.

Mr. Chairman: Our suggestion is that if it is on the road, there would be no transcript at all.

Clerk of the Committee: You would have simultaneous translation going here at the same time, and Jerry is preparing a summary.

Mr. Shymko: You do not understand what I am saying. If we have five delegations in Toronto that make their presentations in French in a facility where one hears a translation, committee members will hear the translation into English, but the Hansard copy appears only in French. I think it would be advisable to have that French Hansard translated into English to have a written understanding for anyone reading the transcripts or Hansard of the deliberations of this committee on certain briefs and submissions of witnesses that were made in French. All he sees is a French text. He would not understand what the submission was all about. Can we look at having the transcripts of any briefs or oral presentations which will be recorded in French translated into English as well?

Mr. Chairman: Are there any other thoughts on that?

Mr. Shymko: I do not mean translating the entire Hansard.

Mr. Chairman: We are open to discussion on that. What does the committee think?

Mr. Philip: A number of us can understand enough French that we can pretty well summarize in discussion what was said in any presentation. If there is a particular document that any of us feel is of such relevance and so different, so absolutely fascinating and interesting that it should be translated, we can make arrangements to have it translated.

The Conservative caucus has already done this thing. We are doing it again. I am not sure why and what we are going to accomplish that they have not already heard. Assuming that we are doing this, then let us not go out and spend piles of money unnecessarily and commit ourselves to large expenditures of moneys.

Mr. D. W. Smith: We are talking about \$60,000 for 10 days on the road?

Mr. Shymko: I see 17 days.

Clerk of the Committee: He is talking about here.

Mr. Philip: For \$60,000, we can open up a new Ombudsman's office in North Bay and keep it operating for a year.

Mr. Shymko: Or fire someone and pay him \$60,000.

Mr. Chairman: We are getting off the topic.

Mr. D. W. Smith: Is that what we are talking about--10 days of travel at \$6,000 a day?

Clerk of the Committee: If you are going to have transcripts on the road, it would cost approximately \$6,000 a day for the transcripts in one language. Then if you are going to have the whole day translated, you are looking at \$8,000 for a day of translation because we run about 25,000 words at 25 cents a word.

Mr. D. W. Smith: That would be \$14,000 a day for transcription and translation. That does not include travel costs, accommodation and salaries for the members, of course. I agree with Mr. Philip that this is exorbitant and we ought not to think about that kind of expenditure of the taxpayers' money.

Mr. Shymko: I made this request. My conscience is clear.

Mr. Chairman: Having heard the views of the committee, can we leave that to the subcommittee when striking the budget, keeping in mind it has been said that on the road we will have the exhibits presented? I think we are going to find that there will be very few strictly oral briefs; most will be accompanied by a written submission. We will have the services of Mr. Richmond in summarizing all of the briefs on a regular basis. The cost of transcription is really quite extensive and we can perhaps avoid it. I am also advised that if there is a requirement for the translation of the summaries, legislative counsel has the ability to do that; perhaps we can use it.

The last thing we need, unless there are other matters to be raised, is authority to decide on the specifics of advertising and the scheduling, the copies and that sort of thing. Can we leave that with the chairman? Having heard the requests of the committee and taking your general guidelines, can you leave it to me as to the specifics of where we will advertise, how much and when?

Mr. Shymko: In the light of the information that we have received, can we have a translation of the summary? The present trend is that we translate not only government reports but even bills are bilingual. I think it is important for the summaries to be bilingual.

Mr. Richmond: We have an arrangement whereby we can ensure that.

On a point of clarification: If I am doing the summaries weekly, would it be adequate to get only the final summary translated? It would be a cumulative version of however many weeks of hearings we have.

Mr. Shymko: Sure.

Mr. Richmond: We will get the final one translated. I will work out the mechanics.

Mr. Chairman: Are there any other points of general business?

Mr. Philip: Will the subcommittee now work on a schedule?

Mr. Chairman: We will meet right now at the completion of this meeting, briefly and informally, right here.

The committee adjourned at 4:20 p.m.





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SELECT COMMITTEE ON RETAIL STORE HOURS

RETAIL STORE HOURS

MONDAY, FEBRUARY 16, 1987



SELECT COMMITTEE ON RETAIL STORE HOURS

CHAIRMAN: O'Connor, T. P. (Oakville PC)

VICE-CHAIRMAN: Guindon, L. B. (Cornwall PC)

Barlow, W. W. (Cambridge PC)

Bernier, L. (Kenora PC)

Morin, G. E. (Carleton East L)

Philip, E. T. (Etobicoke NDP)

Reville, D. (Riverdale NDP)

Sargent, E. C. (Grey-Bruce L)

Shymko, Y. R. (High Park-Swansea PC)

Smith, D. W. (Lambton L)

Smith, E. J. (London South L)

Clerk: Mellor, L.

Clerk pro tem: Deller, D.

Staff:

Richmond, J., Research Officer, Legislative Research Service

LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON RETAIL STORE HOURS

Monday, February 16, 1987

The committee met at 1:50 p.m. in room 151.

RETAIL STORE HOURS

Mr. Chairman: I see a quorum and representation from all three parties.

Gentlemen, members of the committee, we have a few preliminary procedural matters to deal with before we get under way. For your information, you all have before you a travel itinerary which, subject to violent objection of the entire committee--that is unanimous objection--will be our itinerary for the next several weeks. The clerk will be taking care of airline tickets and other logistics. In connection with that, on Thursday the bus will be stopping at the first restaurant north of Highway 401 on Highway 400 to pick up one of our members.

Any questions about that? That is as it shall be. I want to raise one other matter with the committee.

Mr. Philip: You will use Highway 400 and not Highway 27?

Mr. Chairman: Yes, we will use Highway 400.

I will just raise this with the committee by way of information at this point. I received phone calls this morning from two groups who pointed out that the advertisement of our sittings was published only last Thursday and Friday in most papers around the province, and that the 3,000 or more letters we sent out to various interests groups were received, generally, only this morning.

For those groups that are located in Toronto and that officially received notice of the committee deliberations only last Friday or early this morning, the opportunity to prepare briefs and to get on this week's list has passed. They were quite upset that things were moving so quickly. I expect there will be considerable pressure from groups such as phoned this morning to schedule something further in Toronto for the purpose of accommodating them. They really do have a point in that, on the one hand, we have given a deadline of February 21 to prepare briefs, submit them to us and to make requests to get on our schedule, whereas, on the other hand, by February 21 our published schedule for Toronto will have been completed. It does preclude a number of groups from that opportunity. We may have to consider asking the House leaders for some additional time at the end of the schedule; that is, approximately mid-March.

If you are approached by groups with that kind of comment and argument, I suggest you encourage them to submit their briefs in writing. We will certainly accept those up to the time we prepare our report. Also, suggest to them that it is under consideration that we will be requesting further time. We cannot commit to them at this point, obviously.

Any comment on that situation?



Mr. Philip: An alternative might be that I understand one of the problems with scheduling is related to committee rooms around here, but that on Fridays there are committee rooms free. We might be able to take a bunch of those and save ourselves bringing the committee back for one or two days by simply extending a couple of weeks on the Fridays. I know it is hard on some of the out-of-town members, but with most of the flights, you end up back in Toronto anyway, so by staying over the extra day we might be able to accommodate some of those.

Mr. Chairman: That is true. We will take that into consideration also.

Mr. Shymko: I join Mr. Philip in the same request. I think we should have a motion today officially requesting that at least an additional two days be provided some time between March 12 and when the House resumes its sitting on April 28. If this is not a charade and we are indeed serious in trying to get public opinion on this whole issue, it is very unusual for a committee to start its deliberations when, on the very same day, people are just receiving letters informing them of the existence of this committee.

I think it is very important that we make a decision today by way of a motion requesting you, Mr. Chairman, to demand an additional two days, most likely in Toronto. I do not think there will be any opportunity of travelling outside of Toronto, but at least two days here.

Mr. Chairman: Are you so moving?

Mr. Shymko: Yes.

Mr. Chairman: Mr. Shymko moves that an additional two days be provided some time between March 12 and when the House resumes its sitting on April 28.

Any discussion on that motion?

Mr. Guindon: I would like to make it clear that it is hard for the out-of-town members to be here on Friday and then Monday morning at nine o'clock or 10 o'clock. I would like you to be very careful on that. If we have to, I suggest we can extend it until after Easter, even when the House is sitting again if you wish, and we could, after routine proceedings, receive the people who feel they have not had a chance to submit a brief.

I am opposed to the motion of extending Fridays, especially when you are on the road on Monday.

Mr. Shymko: There was not a motion about Fridays.

Mr. Guindon: I am sorry.

Mr. Chairman: One at a time, please.

Ms. E. J. Smith: If you do decide by consensus that we are going to need another couple of days or three days, I would like to suggest that we meet the week before we come back and then we would not have to sit on a Friday. I am in agreement with my colleague the member for Cornwall (Mr. Guindon). I do not like sitting on Fridays either. I would prefer a week closer to the resumption of the House sitting. That would be my suggestion.

Mr. Philip: Why do we not see how many presentations there are in a week or so and then come back for the recommendation?

Mr. Chairman: Perhaps we can defer the question of putting a formal request to the House leaders at present to see how many requests we do receive and then at the subcommittee level determine what might be the most appropriate days to try to accommodate those people.

Mr. Philip: I move the acceptance of the agenda as tabled.

Mr. Chairman: May I ask Mr. Shymko to withdraw his motion at the present time or defer it?

Mr. Shymko: Yes. Defer my motion.

Mr. Chairman: Mr. Philip, you had a motion?

Mr. Philip moves the acceptance of the agenda tabled by the chairman.

All in favour? None opposed.

Motion agreed to.

Mr. Chairman: Any other points of procedure or matters we should raise before we get into the substance of today? If not, I do not think it was a formal motion, but at the suggestion of Mr. Philip, today we will not be hearing from any witnesses with regard to our deliberations. We will be reviewing, generally, the report of the Progressive Conservative Party task force on this issue which held a series of public hearings last February and March and prepared and presented a report dated April 18, a copy of which you all have before you. I presume you will have read some of it at this time. In doing this, we will be able to get a feel for the kinds of briefs and recommendations that will be submitted to us both orally and in writing over the next several weeks.

1400

Looking at the agenda for this week and knowing something of the groups that are requesting attendance before us around the province, they are for the most part exactly the same groups and organizations as we heard last year. In one or two cases, I know they have simply sent in the same brief as they did last year, not having even changed the title page as to whom it is addressed. So we will be hearing much of what we did last year, much of which is published and printed in this report.

Mr. Philip, it was your suggestion. How did you see us going through this or availing ourselves of this information?

Mr. Philip: I think it might be useful if we started with the summary and recommendations. How many members of the Conservative task force are here now?

Mr. Bernier: I was on it for a short time; not the full length of the hearings.

Mr. Chairman: Just a couple of us.

Mr. Philip: I think the difference it makes is that if we are going

to try to get as much information as possible from those people who were on the Conservative task force, it is useful to ask them questions.

Mr. Shymko: They have probably forgotten anyway.

Mr. Philip: I doubt that the chairman has forgotten.

Mr. Chairman: Do not bet on it.

Mr. Philip: Did you have any particular things you wanted to say about the task force or about your experiences? Maybe then we could go into the summary and recommendations and work our way into some of the details from there.

Mr. Chairman: I think we can get right to the summary and recommendations. I wrote the report personally. I attempted to the greatest extent possible to simply reflect what we had heard on the road by way of a recitation of the situation as it exists among retailers, particularly those who appeared before us, and other groups, as was indicated in the report, and to incorporate the recommendations for change that we felt were most predominant and most common among most of the groups.

Where the report perhaps lacks something is with regard to being specific as to the types of changes recommended. You will notice one of the things we suggest is that there be a clearer definition of the terms "essential" and "tourist industry," which are used frequently throughout the Retail Business Holidays Act. We do not go on to suggest in what ways we should better define "tourist industry" or "essential." That was a function of time, lack of research and enough people to really think that through.

This year, we will be hearing the same kinds of arguments, representations and recommendations. Where we can be of assistance in going further than we did last year is in being more specific and potentially more helpful to the government in redrafting of the act by better defining "tourist industry" and "essential" and being very specific in our recommendations in that regard.

The other very predominant recommendation we heard virtually everywhere was in the area of the penalties that are provided in the act. Almost universally, everyone said the \$10,000 penalty is merely a licence to do business for most of the major retailers who were at that time opening regularly on Sunday. We did make a specific recommendation in that regard, as you can see, that the penalty should be increased to be an amount equal to the gross profits earned by the business on a Sunday on which it is open, plus a fine of up to \$10,000. That is eliminating entirely any economic incentive for a store to open.

We also recommended the loosening of the Sunday shopping laws around Christmas, where there seems to be a genuine demand for some increase in shopping days available, particularly Boxing Day and perhaps two, three or four Sundays prior to Christmas. Other than those specific three or four days and Boxing Day, other Sundays and holidays throughout the year should remain closed.

We recommended that there should be an exemption extended to bookstores and record stores, as we have indicated. In fact, there has been a private member's bill introduced recently to give that effect.



Mr. Philip: On that last point, I wonder if it would be worth while asking members of the committee, since that bill did pass in the House, is it the feeling of members from all three parties that item 2(b) in the recommendations is a reasonable one? The bill did pass.

Mr. Chairman: Any discussion on that?

Mr. Shymko: I wanted to raise something else. I do not have an answer to Mr. Philip's question.

Mr. Chairman: Why do we not stick to that question?

Mr. Shymko: What was your question again?

Mr. Philip: The point that was brought out by Mr. Ashe and a number of speakers, myself and Mr. Reville included, was that item 2(b) seems to make some sense. It does not violate the spirit of the act, but there is an inequity in the act regarding books and records. The bill did pass in the Legislature. One of the starting points might be to see, at least among members of the committee, recognizing that it was a private member's bill and not a government bill, whether there is some consensus in agreement with the Conservative task force on recommendation 2(b) or whether we have to be polling out there on that item as well. Can we at least do away with that one item?

Mr. Chairman: I just note that on our agenda for tomorrow, I believe we will be hearing from an organization of bookstore owners and sellers. It appears to be the same one we heard from last year. They are very well organized and will present us with a very well researched brief.

Mr. Bernier: I do not think we should move forward with any preconceived ideas or opinions. We should start this task force with a totally open mind and hear all those who are interested, rather than having our minds fixed on a certain aspect of our task.

We might make some comments about the Kenora situation as presented to the PC task force.

Mr. Ward: Just a comment on Mr. Philip's point, one of the concerns of the Retail Business Holidays Act is a lot of the ad hockery that is contained in the act and the exemptions that are in there. Some of the members who have been around here longer know the reasons for that, I am sure.

Mr. Bernier: I would like to point out we are not alone in this. I was in Winnipeg on Friday and I just gave the chairman the front-page story from the Winnipeg Sun. It talks about the very same issue you are referring to about the ambiguity of the act.

Mr. Ward: To come in with a preconceived notion or to say right off the top we are going to grant some exemptions--I think the purpose of having the hearings and the committee is to try to get some sense and some order to the whole process. I for one do not agree that we should predetermine certain aspects of what we intend to do before we have even had the opportunity for that input or dialogue.

Mr. Philip: I was not asking you to do that. I thought it would be useful, since we are looking over the Conservative task force, to say that there are certain items not worth looking at, that we at least seem to have

some kind of meeting of minds on, and then look at some of the others where there may be some reason to spend time questioning or looking for information up there when we are having our hearings.

Mr. Shymko: The unusual nature of this committee and these hearings is the fact that the official opposition has already assessed public opinion on this issue, which has led to some changes of preconceptions that even that particular caucus had prior to holding these public hearings.

There is an impression out there that because of the fact we already have a task force report and public hearings have been held, this committee is simply an exercise to justify some of the changes the government has initiated in terms of a flip from its original intention, justifying this through a report that will be presented at the end of public hearings.

The question from Mr. Philip is right there. Many of us, after we finish reading the report, will already have reached conclusions and certain answers to questions. Normally, members of committees have before they go into public hearings. In other words, we venture into an area on a subject on which there have been vast hearings throughout the province and on which we already have a substantial report. As I say, the impression out in the public is that this is an exercise in futility and a waste of the taxpayers' money, at least from the people to whom I have spoken when I informed them that I would be sitting on this committee. What I would like to raise is the fact that we do not duplicate things that already have been done.

1410

In some of the recommendations here, there is reference to the Association of Municipalities of Ontario, the Ontario Chamber of Commerce and the Consumers' Association of Canada. Your recommendation, Mr. Chairman, as head of that task force, said they should study the question of province-wide uniform store hours. Although we have had local chambers of commerce that appeared before this task force, have we invited or can we make sure that the Ontario Chamber of Commerce as such appears before this committee? We should make sure that the Consumers' Association of Canada and the Association of Municipalities of Ontario appear before this committee. I did not check the entire list of witnesses and submissions. I do not think any of these three did appear.

Mr. Chairman: I can advise you that the CAC did appear before us last year. The other two did not.

Mr. Shymko: Two did not. If there is anything we should conclude, it is that where there is a gap, where there is a vacuum in terms of important briefs and witnesses we would like to hear, these are two I certainly want to mention.

The other is a very important recommendation you had, and this is the last one, namely, the ripple effect of any legislation that may come into this area. There is a reference to the Ministry of Industry, Trade and Technology, which you recommended should undertake a detailed study of the ripple effect of Sunday and holiday retailing on both the secondary and support industries in the province. I urge that at some stage we should invite the the Minister of Industry, Trade and Technology (Mr. O'Neil) to appear before this committee with any studies the ministry may have done already and to indicate to us its views of the ripple effect.



If there is any relationship between the task force report and what we will be doing, I suggest we pick out things that have left a vacuum, things that will complement the task force and not duplicate what has been done. For example, I have serious reservations when the witnesses you have seen start reappearing again and when 50 or 60 per cent of the witnesses coming before this committee are the same people who appeared before your task force. Let us open the door to briefs and witnesses who have not had an opportunity to make any submission at all.

Mr. Chairman: I can reply to that by saying I do not think we are in a position to turn down or turn off specific groups or associations if they want to appear before us. Certainly, there will be a large overlap from last year, and I expect that more than 60 per cent will be the same groups as last year.

However, I think your suggestion is well taken that we encourage some different groups, some additional groups, that might be able to fill in some of the gaps, as you put it, from the report last year. I think you have very adequately point out that there are some areas in which we can go further than we were able to last year. I am just checking with the clerk now as to whether the AMO and the chamber of commerce were sent letters. As I indicated, we sent out some 3,000 letters to various groups we thought would be of interest. It is as comprehensive a list as we could have compiled.

We can advise that each individual municipality in the province--I think at your suggestion--and each chamber of commerce in the province was sent a letter. As to whether their parent associations were sent letters, I do not think they were, and perhaps we can do that. The CAC is included on the list.

Similarly, I think the suggestion that we ask the Ministry of Industry, Trade and Technology to provide us with information on that particular issue is good. I can advise I have asked our research assistant to start work on some economic studies along the lines you were suggesting, one being the ripple effect and the other being in this area, and I will describe it to you.

We are going to hear an argument frequently from various groups that if Sundays are opened up generally for shopping, there will be an overall increase in the cost of goods and services in this province. The rationale behind that argument briefly is as follows: There are only a finite number of consumer dollars available to be spent. At present, they are spent over six days. If we open up a seventh day, there will be the costs associated with a seven-day opening, whereas there will not be any additional net consumer dollars to be sent. Thus, the cost of goods and services will increase.

1410

I have asked our research assistant to obtain what economic studies are available or to undertake a study to determine if that general argument, which will be put to us in very general terms frequently, is accurate and the extent to which the cost of goods and services will increase, if at all. We are getting those studies done. I think the minister could be of some assistance, particularly if he has enough advance notice to get some work done by his ministry officials prior to his attendance before us. I will take that suggestion under advisement, and we will draft a letter to the minister making that suggestion.



Mr. Shymko: This is my final question, Mr. Chairman. Your task force visited places that we will not be going to, such as Kenora. When we are in Thunder Bay, I doubt anyone from Kenora will be flying to Thunder Bay. In Hamilton, there may be--

Mr. Bernier: The member will be there.

Mr. Shymko: There may be some people coming down to Toronto from Hamilton, but there are places such as Cornwall, Niagara-on-the-Lake--I guess when we are in Niagara Falls some of these people may want to appear--Orillia and Peterborough.

You have covered certain areas of the province that this committee will not be covering, and I just wondered whether you have Hansard or briefs from all these organizations that were submitted to the task force? If you do, I wonder whether some of the observations or submissions from areas that we will not be visiting can be shared with this committee.

Second, as you indicated, Mr. Chairman, your assumption is that 60 per cent of the individuals and groups you have met with and listened to as chairman of the task force may be appearing again. That is a very, very high percentage of people who will be reappearing before the standing committee.

In the selection of witnesses, because of the time constraints and because of the constraints of place and other areas, if we go to London, for example, and there are organizations that did not make any submissions to your task force, I would urge, if you have the discretion--and I think you do--that in your discretionary power you give them priority to appear first, followed by organizations that have already made submissions to the task force. That is the end of my comment.

Mr. Bernier: If I can follow up on Mr. Shymko's comments regarding communities that we will not be visiting and just comment briefly on our visit to Kenora, I might point out to members that it was just about a year ago, in fact, January 28, the day the satellite blew up over Cape Canaveral--it was about 30 below zero in Kenora--a day we will long remember.

The committee did sit in Kenora, and I must say there was an attitude prior to the committee coming to Kenora that Sunday shopping was not an issue. However, about two or three weeks prior to our coming to Kenora, Canadian Tire made an application to the town council to open up on Sunday. The whole issue boiled over and really boiled over, so that we had some good comments and some good representations at that Kenora hearing. It was obvious that the chamber of commerce and the business community, which are tourism-oriented--and Kenora is a tourist community--were most anxious to address that particular issue as to how to look after the tourists who do come up on weekends.

The rotation system in the tourism industry is a Saturday and a Sunday. In other words, you book a week's holiday and there is usually a turnover on the Saturday and Sunday. Many of them like to shop on Saturday or Sunday, so that issue still stands.

As has already been pointed out with respect to a uniform closing day, in many parts of northern Ontario the stores are closed on--first of all, it used to be Wednesday afternoon and--

Mr. Barlow: It was all over Ontario.

Mr. Bernier: ---it was pretty nearly all over Ontario. Now some places close all day Monday; so we have a five-day week from Tuesday until Saturday, and some places do not close up at all, so there is no uniform closing day. They want the reverse. They want a closing day. They said there should be a uniform closing day across Ontario.

1420

It was obvious to us, from the unions' point of view, that they were definitely not in favour of opening up on Sunday. They felt their membership did not have to work on that particular day. There was no extra pay for them. It disrupted family life with their children and they were violently opposed to it. That came through loud and clear.

What I am trying to say is there were two different feelings in Kenora: one with the business community asking for some consideration to look after the tourist traffic--not the regular community requirements but the tourism traffic that goes through Kenora--and the unions violently opposing any continued opening of Sunday.

The bottom line would be a common pause day. I think that came through too. There was one underlying feeling that one day per week was not too much to ask for.

Mr. Chairman: Anyone else on that point?

Mr. Barlow: To follow up on Mr. Shymko's remarks of inviting these major groups in, which I encourage, it is a good idea and we probably should hear from the umbrella groups. Our timing could be a problem though, could it not? We are only in Toronto for two more days and there is no way anybody is going to get a brief ready.

Mr. Chairman: Before you arrived, I think we discussed that problem and the possibility of scheduling more Toronto hearings.

Mr. Barlow: This would be after everything that is scheduled now. That would be appropriate then and the minister can come in at the same time.

Mr. Chairman: That is under consideration.

Mr. Reville: Has something emerged from this discussion that I have missed?

Mr. Chairman: I believe what has emerged from Mr. Shymko's suggestion is that we specifically contact the Association of Municipalities of Ontario, the Ontario Chamber of Commerce and the Ministry of Industry, Trade and Technology requesting that they attend before us with their views on this issue.

Mr. Reville: Could you table for the committee the mailing lists to which you sent notice of these hearings? Listening to Mr. Shymko's comments, I have some concern that it is difficult and probably incorrect to restrict people's right to appear. While a large number of groups appeared before the Tory task force, they certainly did not make representations to an all-party committee, so they may feel they want to do that again and their right to do that should be unfettered.

Mr. Chairman: I think I recognized that right and indicated we were not going to be able to restrict them, that they were going to have that right, as far as I was concerned. The question then becomes one of scheduling everybody who wants to appear before us, to the extent that it is possible to ask umbrella groups that represent large numbers. The case of the union is a perfect example. We heard from a local of the same union at every place we went last year. If the central organizing body of the union here in Toronto could make one presentation, that would preclude hearing from each local, and similarly with AMO perhaps.

Mr. Reville: You mentioned also that some economic studies were under way. Can you tell me whether there is any current body of literature that deals with the changes in market share under open Sundays? What I am interested in is learning whether, in jurisdictions which have more open holiday sales, the market share changes between big concerns and small concerns?

Mr. Chairman: Two things immediately comes to my mind in that regard. There was an Ontario Law Reform Commission comprehensive study done about 1974 or 1975 leading to the passing of the Retail Business Holidays Act. It had several chapters on the economics of the whole issue. You might want to look there.

Second, I believe we received some economic studies from the United Food and Commercial Workers' Union last year on that subject. You might want to be in touch with them with regard to that, although perhaps it will present them to us again. Incidentally, it was the union that appeared in every single location we were at.

Mr. Philip: Can we not have Mr. Richmond contact them and then present them to all members of the committee?

Mr. Chairman: Yes.

Mr. Reville: I have a question about another of your recommendations. I think it was recommendation 2(c) if I am not mistaken, namely, provide a clear definition of the terms "essential" and "tourist industry."

In respect of the definition of tourist industry, were you trying to come to grips with the curious situation that pertains in the city of Toronto, where some areas have been designated by council as tourist areas and some have not?

Mr. Chairman: Yes. The way the present act is structured, as you know, is that it leaves to each municipality the power to declare itself or part of itself a tourist area. Where the act fails and, frankly, where we failed last year in assisting in that situation was in recommending any kind of criteria to be made available to municipalities when making that determination. Because there are no criteria and because it is up to the municipality, for whatever reasons they see fit, to declare a tourist area or not, tremendous anomalies developed across the province.

For instance, the classic one is the situation in Mississauga where the Mississauga council had seen fit to declare a Longo's fruit market as a tourist area and it is thus open on Sunday, whereas, the Metropolitan Toronto



council has not seen fit to declare the Eaton Centre a tourist area, but it has Chinatown, or part of it, and it has Harbourfront. There is no continuity.

It does not make sense in those situations. As a committee, we can be of some assistance in attempting to come to grips with that definition of a tourist area and what is essential, the other area where there is no guidance or background to help municipalities in making that determination, by setting out some guidelines and definitions for them.

Mr. Reville: Did you get any representations at all that indicated municipalities should be in charge of this whole legislation?

Mr. Chairman: Yes. You will hear that quite frequently and you will hear the other side of the coin as frequently, that it should be provincial legislation and there should be no jurisdiction within the municipality to opt in or out.

Mr. Reville: Given that where municipalities are clustered, it certainly creates a lot of pressure one to the other.

Mr. Chairman: Border wars.

Mr. Philip: Did you obtain any kind of research from other jurisdictions that would help us with the definition of the tourist area? They are running into the same problem in British Columbia, are they not, and in certain other provinces where they are open on Sunday in certain areas?

Mr. Chairman: The studies that we saw from jurisdictions outside of Ontario were very few. I do not specifically recall anything in that area.

Mr. Philip: Mr. Richmond has a response.

Mr. Richmond: I hope next week one of our lawyers will have for the committee a comprehensive table comparing all the legislative features of Sunday closing provincial legislation of whatever stripe across Canada. One of the things I know she is comparing is other jurisdictions that get into this tourist area designation. We should have that.

Mr. Philip: The Conservative task force did not really come to grips with that or deal with a comparison with other jurisdictions? Is that correct?

The answer I am getting is that the Conservative task force did not deal in a comparative way with other jurisdictions, but that a paper is being prepared for us doing precisely that; so we can use it at least to deal with item 2(c) in your report and try to come to grips with that.

Mr. Chairman: We did hear of the situation in other jurisdictions, and I think I have noted it throughout the report.

Specifically, Britain comes to mind. It dealt extensively with this issue in the last year. It came before Parliament by way of a bill called the Shops Act to open Sundays and it was defeated. Even though it was a government bill being recommended by the Prime Minister and the cabinet, it was defeated by the Conservative House.

There were some studies done in various states of the United States, to which reference is made throughout this, but not extensively.

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Mr. Philip: May I ask a question concerning item 2(a)? What was the justification for your permitting Sunday shopping on some Sundays prior to Christmas when most municipalities already allow extended hours prior to Christmas anyway?

Mr. Chairman: Just as it indicates, there appeared to be a genuine demand for additional shopping during that time frame as opposed to what we perceived throughout the balance of the year. There was a sort of ill-defined request that for convenience purposes, some people would like additional shopping on Sundays, but it was significantly intensified around Christmas. Even people who objected violently to generally open Sundays did concede that around Christmas they would be content that there be two or three Sundays open to meet that additional genuine demand.

For instance, retailers told us that up to 40 per cent and 50 per cent of their annual sales take place in December. That is really quite a significant figure.

Mr. Philip: Was the demand from consumers or was it from retail circles? Was there any difference between the small retail people and the large chains?

Mr. Chairman: No, there was no difference. That was something that surprised me throughout. There did not seem to be a difference in attitude depending on size of retail outlet. They seemed to be consistent in their opposition to generally open Sundays, regardless of size. As to the demand around Christmas, I would say it was general, from retailers and consumers.

Mr. Philip: The case has been pointed out to me by some of the smaller retailers that for certain specialty items such as specialty cakes, if you allow the large chains to remain open on Sundays, you are cutting into their business. That is the one time in which they can make some money. They normally make it on Sunday anyway and if the large chains are allowed to remain open on Sunday as well, they will cut into it. I am talking about specialty cakes, chocolates and things like that, which are sold in bakeries and that kind of smaller store.

Mr. Chairman: That seems a logical argument. I cannot recall hearing it specifically from the small food retailers of the kind you are mentioning. It could be so.

There seems to be general acceptance that a few Sundays before Christmas is somewhat different from the rest of the year.

Mr. Philip: I guess the most frequently heard argument against Sunday openings is quality of life. Particularly, some people will make the argument that families are under pressure already and that not having a common day of pause or recreation when the family can get together adds to that pressure and increases social costs.

Were there any sociological studies tabled with you? I know if you talk to the average social worker, he will tell you he believes this, but were there any studies tabled that gave us some statistical or scientific evidence to the contention, which I think is fairly widely held by church groups, social workers, community workers and so forth?

Mr. Chairman: I believe the Roman Catholic Archdiocese of Toronto had done a study to which they referred and provided statistics. I do not know that we have included it in the report, nor those statistics.

Second, I know there were extensive polls done at the behest of the People for Sunday Association of Canada umbrella organization. A Gallup poll was done and it is really quite comprehensive. I believe part of it is reproduced in the report. It goes on for 50, 60 or 70 pages of questions, as I recall. That kind of study may be of some assistance. I am sure they will present it to us again this year.

Specifically, I do not recall sociological analyses or studies that establish the quality of life argument or back it up, but I can ask Jerry to attend to that and see what can be found.

Mr. Philip: It would be useful to have some scientific studies rather than anecdotal studies. I am not saying the anecdotal studies are invalid--on the contrary, like so many people in society, I happen to believe them--but I would feel more comfortable if I had some scientific studies as well.

Mr. Chairman: You make a very good point. I think I was alluding to that previously and I did not state it as clearly as you did. Much of the findings we came to last year are based on anecdotal representations and briefs from these groups. I was uneasy about this for some time. We lacked the really scientific backup in the area of the ripple effect, for instance, in the area you are just speaking of now and in several other areas. We did not get the scientific backup that I would like to have heard. It may have been a function of the groups not having time to do all this sort of thing or whatever.

To the extent that we can get more intensive studies done, either by our own staff and help or through some of these groups that can commission them themselves, it will be a great help to us.

Mr. D. W. Smith: I just wondered, in listening to the discussion here, whether we may have an overwhelming number of presentations from groups that would like to be heard. Have you given any thought as to how you are going to assess what presentations can be made? Are you going to decide that if a presentation was made to your Tory task force, that will give you reason not to hear it again? How are you going to look at that overall issue? I have no idea how many presentations you are going to get or have received at this time.

Mr. Chairman: We kicked that around a bit already. Our conclusion was that we are not going to preclude anybody from making a presentation this year simply because they did last year. Everyone who contacts us and wishes to make a presentation will be accommodated if possible. Our schedule is filling up rather quickly and people will have to hurry.

We recognize that we are a public select committee and everyone should have an opportunity to appear before us. With that in mind, we will try to accommodate everybody. We have recognized that there are already a number of groups in Toronto that cannot meet our deadline of being available this week. Therefore, we may have to schedule additional Toronto hearings some time at the end or in the middle of our proceedings.

Mr. D. W. Smith: So you necessarily will not give priority to one group that has not made a presentation to you before?



Mr. Chairman: No. I do not think we should do that. The only restrictions we agreed to place on groups were that where it is a subgroup or the local of a union or an association, if possible the parent association should make one presentation on behalf of all the locals or subgroups.

Mr. Shymko: Mr. Reville just left. As a former municipal politician, are there any criteria for the definition of an industrial or a tourist area within municipalities? Is there anything in existence now? Could our researcher help us in this area?

Mr. Richmond: I am not aware of any all-encompassing definitions. I indicated to Mr. O'Connor that in the next few days I expect to have the tourist exemption bylaws in Metro Toronto. I have requested those from city hall and will be able to distribute them to the committee. After our hearings, if we collect most of these tourist exemption bylaws and the committee analyses them, I think we can get some gist of some common denominators there.

When we get into writing our report, the committee may be able to identify some mutually acceptable criteria. We may hear that Ottawa does it one way, Mississauga does it another way and Toronto does it another way. When we look at all those in detail, I am hopeful that we may be able to come up with an answer. As yet, I have not canvassed the field. I am waiting for the evidence to come forward.

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Mr. Shymko: I understand from Mr. Richmond that we will be getting a detailed description of the various interpretations of tourist areas by various municipalities in Ontario at some stage during the hearings.

Mr. Chairman: I think what we are going to find when we do get those bylaws from the various municipalities is that they are simply bylaws describing geographical boundaries and declaring the area within those boundaries to be a tourist area and thus being permitted to open Sunday. I do not think we are going to be getting the rationale behind the passing of those bylaws unless we are able to obtain whatever is comparable to Hansard for those municipalities. That is what would be most useful, because that is where the thinking of various municipalities varies so broadly and that is why I think we have to provide some guidelines for criteria for municipalities in establishing tourist areas.

Mr. Shymko: There is a problem in the city of Toronto. Mr. Reville, as a former municipal politician, may remember some of the debates. You have parts of the city of Toronto, for example, where one side of the street is designated as a tourist area while the other side of the street is not. Problems such as that are absurd and ridiculous. Chinatown is the classic example of that.

Mr. Sargent: Who designates?

Mr. Shymko: The municipality does, on some criteria that I do not know. I guess there is none.

Mr. Reville: It is based on who has political clout at a particular moment.

Mr. Shymko: Exactly.

Mr. Reville: So there are three tourist areas within the city of Toronto: Harbourfront, Markham village and downtown Chinatown. The Eaton Centre could make the same case that it is a tourist area; so could Yorkville and almost any shopping district. It is absolutely silly that those three should be considered tourist areas and others not.

Mr. Shymko: I think it is a very important piece of information, because we may make recommendations to the effect that this province will not have a universal law on the question of extended shopping hours but will allow individual municipalities to decide. If the government opts out--which is a cop-out position and a nice way out, but that may well be a decision the government may want to look at--or if it looks into that particular approach, we had better have some information as to the blatant inequities of one municipality applying certain criteria versus those of another municipality in another part of the province. I just want to stress the importance of that definition or whatever you want to call it.

Mr. Barlow: How does a municipality go about designating a tourist area? Is there a permissive clause in the Retail Business Holidays Act?

Mr. Chairman: Yes. There is a clause in the statute which permits a municipality, upon application, to designate a portion or all of that municipality as a tourist area and thus permit it to be open generally for retailing on Sunday. It is subsection 4(2).

Mr. Barlow: The way it is right now the process would be that the merchant or retail group within the municipality would apply to the city. The city would then apply for provincial legislation.

Mr. Chairman: No.

Mr. Barlow: They do not require it?

Mr. Chairman: No. The merchant group or association would apply to the municipality and it can pass a bylaw of its own. There would be no reference to the province.

Mr. Barlow: I see. The municipality already has permissive legislation to designate.

Mr. Chairman: Subsection 4(2) permits it to do that.

Mr. Barlow: That is fine.

Mr. Ward: A municipality can initiate a draft bylaw and a bylaw on its own; it does not have to come as a request. In Hamilton-Wentworth, I know three years ago the whole impetus was behind trying to pass a draft bylaw which designated the entire regional municipality of Hamilton-Wentworth a tourist area. That is how much control exists under the act.

The fact is, any municipality can be exempted from the provisions of this act if it chooses to go through the exercise of doing that, which gets into the whole issue of the need for uniformity of some sort, even going beyond the issue of Sunday shopping, where we are running into real problems now as in the situation you have in Halton, where I think Burlington has extended hours on earlier nights of the week. Recently, the city of Hamilton has felt under pressure to extend its shopping hours because in that case there is an element of inequity and unfairness. The neighbouring municipality

is drawing business away. I think the committee should look more at those issues and the whole aspect of uniformity rather than getting back to the nitty-gritty debate about whether or not to have a day of pause. Let us look at the act as it stands today, what problems are coming about as a result of that act and try to make some recommendations to ensure there is fairness and equity in it, because there is not right now.

Mr. Philip: I think Chris is talking in and around something I think is valuable for us to look at. I say that in a complimentary way because we will all be trying to come to grips with this.

It has struck me as blatantly absurd with most municipal regulation or licensing, because the economic zones are not identical to the municipal boundary zones. We have run into that with the regulation of trucking. The issuance of municipal trucking licences has never worked. It makes absolutely no sense when traffic flow goes to Peel or Rexdale to have a boundary at the Mississauga border that says you are allowed to operate a truck on one side of the border but not on the other side, when in fact the commerce travels that way more than towards the centre of the city, etc.

We ran into that a few years ago when the city of Toronto wanted to license tow-truck operators and we said that was absurd; it should be under the province because on Highway 401 most of these guys do not even know what municipality they are in. It makes no sense whatsoever to have a municipal boundary. That is one of the issues we may want to come up with.

If you are going to do that, you have to set up criteria that may be administered or examined locally in some way but that will be criteria or guidelines that have to be used. That is one of the problems we came up with in defining what is a tourist area and who adjudicates when there is a disagreement, because some municipalities will want the whole city a tourist area if it thinks it can bring commerce away from the adjoining municipality and you have to have some way of evaluating it, if that concept makes sense.

That is one of the issues we will be looking towards research to look at some of the comparative studies.

Mr. Shymko: At present, does "municipality" under the Retail Business Holiday Act mean regional municipal areas? Does "municipality" mean Metro Toronto, for example?

Mr. Richmond: Let us say the city of North York in Metro Toronto wanted to pass a tourist exemption area; they would request that from the Metro government and it would be a Metro bylaw. The city of Toronto bylaws in effect are not city of Toronto bylaws, they are Metro bylaws, but they are passed on the request of the local area or municipality.

The same would hold true in the regional municipalities. If the city of Ottawa wanted to do something with a tourist area, say in the market area, they would go to the regional municipality of Ottawa-Carleton. I think that is outlined in the act.

Mr. Shymko: Subsection 4(1) says "municipality" includes regional and metropolitan. So Metro Toronto could request the province to be exempted from the act as an entire region?

Mr. Reville: And could do so on the request of its municipalities.



Mr. Shymko: If Metro council votes unanimously to exempt.

Mr. Reville: The way they have handled it in the past is if the city of Toronto had a request, the city of Toronto would make a decision and the Metro council would ratify the decision. They would just rubber-stamp it believing, quite rightly I think, that the matter should be dealt with by the local municipality, but in fact the decision of the local municipality goes to the regional municipality for ratification.

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Mr. Shymko: But my question is--and it has not been answered--can Metro council make the entire region exempt?

Mr. Reville: Sure, it could, but what we discover is that Metro politicians are under the same pressure about this matter as provincial politicians and they would like to have a piece of legislation to work with that is not so full of holes.

Mr. Chairman: Gentlemen, can I make a suggestion? We are raising a number of very technical, legal-type questions of definition and so forth. It may be useful to ask a ministry official to attend before us and schedule an hour or so to answer this kind of question, as to the procedure municipalities are using, what guidance they are given and so forth. That may be best done on one of those additional Toronto days we are going to try to schedule. Perhaps the same day we ask the minister, he can bring some officials and they can assist. These are valid questions and we are kicking them around without a lot of background knowledge or authority.

Mr. Reville: I have background knowledge and authority.

Mr. Chairman: Yes, you would, with respect, having had to listen to those debates until the middle of the night several times for the past 12 years without stop.

Mr. Barlow: You are an expert.

Mr. Chairman: Mr. Sargent, welcome to the committee. This is your first participation.

Mr. Sargent: I am sorry I am late. I had other engagements.

What is the power like? Can a municipality be autonomous in this area in its own municipality?

Mr. Chairman: Yes, it would be under the act. That is one of the difficulties, as we pointed out before, in that although the municipality is given carte blanche to make a declaration of a tourist area, there are no criteria or guidelines as to why they should declare themselves to be so. What is a tourist area? There is no definition of it. What is essential? There is no help there either. I think that is an area in which this committee can be of some assistance to government in redrafting the bill.

Mr. Sargent: If your committee recommends the House pass certain legislation, is that binding to every municipality? If the House passes the legislation, is that binding to every municipality?

Mr. Chairman: Certainly, to the extent that municipalities are creatures of this Legislature and if we pass laws binding them, we certainly

are able to do it. We have done so with the Municipal Act, which is the governing statute with regard to all municipalities. Sure, we have the power to do that. Right now we have left it open to them to decide what is a tourist area based on whatever criteria they want to pull out of the air. They have been quite liberal in their interpretation in some areas and not so liberal in others. An example is Leo's area of Kenora. I do not think there is any other town in the province that is more dependent on tourism for survival than Kenora, yet the municipality of Kenora has not declared Kenora a tourist area and it is closed on Sundays, period.

Mr. Shymko: Another question I have may be something that we would discuss and address. It is the definition of "holiday" under the act. Just a few days ago, I read that the city council of Kingston, at the urging of Pierre Berton, Flora MacDonald and others, tried to have a heritage public holiday declared in Canada, which apparently was not successful. The municipality declared, in the third week of February, a John A. Macdonald Day. It has become a public holiday in that municipality. If a municipality declares a public holiday, is that allowed under the act?

Mr. Reville: No.

Mr. Shymko: Would that be binding in the area of what we define?

Mr. Reville: No.

Mr. Chairman: The holiday definition is very specific and it does not include Sir John A. Macdonald Day.

Mr. Shymko: So a municipal decision to have a holiday and to define it as "public" really is of no significance; it is a purely symbolic declaration?

Mr. Chairman: Not with respect to this act, it is not.

Mr. Bernier: Do our terms of reference instruct us to bring in some type of direction for the government or can we just say, "Do away with the act completely, let the chips fall where they may and let the business community do what it wants--if it wants to open up on Sundays, or if it wants to close, that is its business--and get them out the people's hair"?

Mr. Chairman: Perhaps I can have our researcher read the terms of reference and then we will decide. I think they are pretty broad.

Mr. Richmond: These are the terms of reference as printed in Votes and Proceedings on January 27. They are quite lengthy, so just bear with me. Incidentally, I can get these run off tomorrow:

"On motion by Mr. Nixon,

"Ordered, that a select committee on retail store hours be appointed to review and report its recommendations pertaining to Sunday shopping and retail store hours; that the committee have authority to sit during any adjournment of the House and any recess between sessions subject to approval of the House leaders, and have authority to adjourn from place to place, subject to budgetary approval by the Board of Internal Economy; that the committee have authority to release its reports during any adjournment or recess of the House by depositing a copy of any report with the Clerk of the Legislative Assembly and upon the resumption of the sittings of the House, the chairman of the

committee shall bring such reports before the House on accordance with the standing orders; and that the committee have power to call for persons, papers and things and to examine witnesses under oath, and the assembly doth command and compel the attendance before the said committee of such persons and the production of such papers and things as the committee may deem necessary for any of its proceedings and deliberations, for which the honourable the Speaker may issue his warrant."

Mr. Sargent: Does that not say we have to come forward with a decision?

Mr. Reville: We could recommend that nothing happen.

Mr. Chairman: Committees cannot make decisions, bills, statutes or laws anyway. The best we can do is make recommendations and it is up to the government to follow them or not.

Mr. Barlow: I notice where it says "adjourn from place to place," it does not restrict us to Ontario.

Mr. Reville: Or Canada.

Mr. Barlow: Or Canada for that matter. That is right.

Clerk of the Committee: The standing orders do that.

Mr. Guindon: I guess we are off the Progressive Conservative task force report for a moment. I would like to ask if legislative research has any information in regard to the impact on tourism in Ontario if tourists were permitted to shop on Sundays?

Mr. Richmond: I can try.

Mr. Guindon: I would be curious to know.

Mr. Richmond: The impact on tourism if Sundays were open for tourist areas?

Mr. Guindon: Yes. I would be curious to know how many people, from the US especially, will not come to Ontario on Sundays because everything is shut down.

Mr. Shymko: Or would come if everything was open?

Mr. Guindon: Yes, the opposite is right too. If it is possible, it would be interesting to know.

Mr. Chairman: We will ask the researcher to determine whether there are any studies in that area.

Mr. Philip: That is a pretty general question. For one thing, if you ask people, "Would you do something if this were open to you?" a lot of people will say yes.

I could be asked if I would attend the opera if it were made available to me for \$5 every Sunday, and I would say yes because I would love to attend the opera, particularly if I could get it for \$5. But then Sunday comes and I really do not have time to attend the opera, so I do not attend. It does not



really give you very much information. Most people will say, "Sure, I would love to visit Vegas," if you asked them, but very few people go to Vegas.

Mr. Guidon: Just the traffic count at Niagara Falls would be indicative of whether there is more or less travelling on Sunday than on Saturday or Monday during the summer. It would tell you right there that there is some hesitation on the part of people to travel in Ontario. If we had a traffic count on certain days at all the bridges, like Cornwall and Kingston, it would reflect which way the traffic is going on Sunday.

Mr. Philip: That would be significant only if you distinguished between business traffic and tourist traffic, which would be quite hard to do. As the airlines will tell you, most travel is done during the week and it is done for business purposes.

1500

Mr. Chairman: We will look into it and see what studies are available.

Just picking up on Mr. Philip's comment about, "Would you like this if it were available?" that type of thing, a number of polls have been done. I am looking at one press release, which is in our package, from the Toronto Star which apparently did a poll and found that 66 per cent of people want stores open. I think that comes from the simple asking of a question such as, "Would you like to shop on Sunday?" If you ask a number of people on the street a question like that, you are going to find a very large percentage agreeing; because it sounds mildly convenient to them, they are going to say yes. It is a soft type of yes. On a scale of one to 10, their desire to shop on Sunday is about a two.

If you get into that poll and extend it to the merchants, to the groups and to the associations that are against it, you are going to find that the number who are against it, particularly if people are educated as to some of the implications of Sunday shopping such as the additional costs, as referred to, and the effect on families and family life, then you will see a dramatic turnaround in the numbers of people who are in favour of it, as has been done in some more intensive polls that were reported in that press package.

Mr. Reville: Could you provide some mall contracts for us? I understand that is another issue; some malls have contracts and if one is open, everybody has to be open.

Mr. Chairman: Yes. That is quite easy to do. We got some last year and they will be available.

Mr. Philip: One of the issues that seems to come up--at least every once in a while I get a letter on it--is that there seem to be some malls that will enforce Sunday closing on all their merchants but then operate flea markets selling the same goods in the same mall on the Sunday. Was that an issue you ran into in your task force?

Mr. Chairman: Not specifically, no. We were addressed by three of the largest mall owners in the province, particularly Cambridge Shopping Centres, which is the largest. The position they took, as reported here, was that they do not care one way or the other. If the majority of their merchants want to be open and if the area is declared open, they will go along with it. If the merchants do not want it open, they are fine. They are content not to open on Sunday.

Mr. Reville: Mr. Philip has raised another issue. I understand Hamilton has flea market legislation.

Mr. Chairman: Flea market legislation is allowed under the act. It is an exemption. That may be what mall owners are doing.

Mr. Reville: Yes.

Mr. Ward: Before we leave Ed's point, though, there is something that I think was missed. It may well be that most mall management firms will say, "If the area is designated open, we will go along with the majority of the merchants," but I think Ed's point--correct me if I am wrong--is that the minority still has to open if the majority decides it is going to be open. That is the crux of it: the small retailer in a mall does not have a choice. Most contracts are written and if it is deemed they are going to open on Sunday and it is permissible to open on Sunday, then they all have to open on Sunday.

Mr. Chairman: The mall contracts generally provide that they will adhere to mall hours. That is true. Whether those kinds of clauses should be permitted in mall contracts may be something we should look into.

Mr. Reville: There is another wrinkle, which I hate to bring up but I am going to anyway, in terms of gasoline. Some municipalities have gasoline hours. I do not know whether that is caught under selling or offering of goods or services by retail. The city of Toronto has an early gasoline closing bylaw which has just been upheld by the courts. I do not know whether this causes difficulty for anybody else or not, but it is another very vexing issue around which there is no consensus either. When the staff from the ministry come in, maybe they will comment on that.

Mr. Chairman: Yes. They could.

Mr. Shymko: Getting back to Kingston, today there is a public holiday in Kingston. I do not think it is as symbolic as you may perceive it.

I would like to know whether our researcher could find out whether a declaration of a public holiday by a municipality, where all municipal employees are on a holiday--they are paid today--and the major employer in Kingston--I forget who that employer is--has joined the municipality--in fact, what you have is a public holiday in one municipality where all retail businesses are open. This has happened at the discretion of a municipality. We are talking about municipal powers to designate an entire region or area as a tourist area, and here you have a municipality which does it the other way; it declares a particular day as a public holiday and all retailers are open.

I would like to know whether that is recognized by statute. Do the municipalities have the power to do it? Is it recognized as a public holiday? Who recognizes that?

Mr. Richmond: I will contact the city of Kingston, speak to the city clerk and see what the situation is. One would think they must have some legislative authority to do it because if a municipality does something that a provincial statute does not allow, I think it would be invalid. I will see what they have done, how they have done it and then the committee can consider it. We are going to Kingston, are we not?

Mr. Shymko: Okay. If you could do that research before you go to Kingston, I would appreciate it?



Mr. Richmond: Yes.

Mr. Chairman: Are there any other specific areas of research or questions you would like to raise now for Jerry, who until now has not been requested to do a lot of specific research? After today, he will not be going to bed for the next three weeks, I suspect.

Mr. Richmond: The only comment I will make, with respect, is that I know from past experience that some of the questions are somewhat elusive. On some of the questions, I do not feel I will be able to nail down the definitive study. Initially, I will attempt to nab any studies that exist on someone's shelf, whether in Canada or other jurisdictions, possibly the US states, that have somehow tried to analyse some of these questions. I will caution the committee that on some of them I doubt we are going to get the definitive sociological study, because if a religious, consumer or labour group does a study, sometimes that study could be biased.

Mr. Reville: No. Never say it.

Mr. Richmond: I will pursue it to the best of my ability.

Mr. Philip: I would not think they would be any more biased than the mail-back questionnaires that are on MPPs' riding mailings.

Mr. Reville: Now that is a different question.

Mr. Chairman: Easy now.

We are talking pretty generally. Are there any specific points members want to raise or any questions with regard to last year's report, which was to be the subject of today's session?

Mr. Sargent: Who are the people who will appear before us? The people who are opposed to Sunday shopping? Basically, they are going to be negative, are they not?

Mr. Chairman: Definitely. I think 97 per cent of the groups, briefs and organizations that will appear before us will be vehemently opposed to it. Looking at the first two days' agenda, I think virtually everybody on that agenda appeared before us last year. I do not think there is anyone new--perhaps one. I know for a fact that their briefs will be strongly opposed to it generally for the reasons set out in the report.

That is not to say we should not hear them, as we have pointed out already, and that is not to say we should not question them as diligently as we can to find holes or flaws or get to the basis of their rationale. The only group I do not think we heard from last year is the Citizens for Public Justice. I do not know who they are.

Mr. Barlow: That could work either way.

Mr. Chairman: Yes.

In any event, there will be a large number against and very few in favour. Frankly, as we point out in the report, those who are in favour of Sunday shopping are generally individuals; they do not organize themselves into lobby groups, because the benefit or the convenience to them is rather mild. Sure, they would like to shop on Sunday, but they are not so exorcised about it that they are going to get a group together--



Mr. Reville: Exercised.

Mr. Chairman: Exercised, exorcised--

Mr. Reville: That is something that priests do.

Mr. Chairman: --exercised about it that they are going to raise money and form a group of people to come here. Exercised?

Mr. Reville: "Exorcized" refers to a kind of liturgical routine to get rid of demons.

Mr. Chairman: I did not know you were into that.

Mr. Reville: I am into everything.

I wonder whether we are going to hear from any law enforcement branches. My hunch is that this current legislation is damned difficult--delete that word before difficult--to enforce. It might be interesting to hear from some of those who are charged with the job of enforcing legislation like this so that we can get a sense of what kind of trouble they have.

It is easy to say that as long as they stay closed one day, they have met the conditions of the act, but try to figure out how you would ever enforce a thing like that.

1510

Mr. Chairman: That is a good suggestion, how we can best reach them. Circularizing all municipal police forces is a pretty big undertaking.

Mr. Reville: I am wondering maybe if the police association, the Ontario Police Commission or some sort of umbrella group would like to deal with it. I know the Metropolitan Toronto Police, because the jurisdiction is so big, may have something they want to say. There are three divisions that deal with my area. They all feel differently about this legislation.

Mr. Chairman: Perhaps I can make a suggestion that we do it through the OPC for one and the police commissions around the province. There must a limited number of them.

Clerk of the Committee: Are these police associations you are talking about?

Mr. Chairman: No, not police associations. Police associations are the association of officers. I think the police commissions in each case would be the appropriate body. Would you agree with that?

Mr. Reville: I am just wondering whether that puts a strain on police commissions and whether we should ask the Ontario Police Commission, which is an umbrella body for all police commissions, for its advice on how to handle this matter. To expect every police commission from Ontario to want to direct its mind to this may be a bit much to ask.

Mr. Chairman: All right. The OPC alone then.

Mr. Reville: Yes.

Mr. Chairman: Is there any further thought on that one?

Mr. Shymko: If that is the case, why not suggest that Toronto furrier Paul Magder appear before this committee. He has been quite successful in handling the police and has been doing quite well.

Mr. Chairman: We do not have to suggest that, Mr. Shymko.

Mr. Philip: On this topic, I would like to give the committee some research that was done by the Solicitor General (Mr. Keyes) in response to question 412, which I put in Orders and Notices.

It is interesting that there was an escalation in the number of charges laid for Sunday openings over a three-month period. In August 1986, there were 167 charges. Here is the response:

"A total of 499 charges were laid by municipal police forces during the month of October 1986 against grocery stores for alleged infractions under the Retail Business Holidays Act. This represents a substantial increase over two previous months. Municipal forces reported 308 charges were laid in September 1986 and 167 charges were laid in August 1986."

That was a question I tabled in the House in October 1986, asking what was happening in terms of the charges that were laid and how they were being compared to others.

Mr. Shymko: Is this in Toronto?

Mr. Philip: No, this is across the province. It appears there was an escalation in the number of charges being laid by the police forces. Admittedly, it is only for a three-month period, but it may give us a snapshot. Either the police were getting tougher or likely that was the time when the large supermarkets were starting to remain open. That is why there was an increase in the number of charges laid.

Mr. Chairman: Perhaps that is something we can ask the OPC if it comes before us.

Mr. Philip: What were the circumstances around that? I suspect, and I am sure this is the case, that was the time when Food City decided to stay open, followed by Miracle Mart. Therefore, there would be more instances where they would have an opportunity to lay charges.

Mr. Chairman: Okay. Are there any more points we want to raise? Do you want to continue a discussion of last year's report? I have a lot of useful suggestions as to the types of research we would like prepared for our committee and the additional groups and associations we would like to hear from in the course of our deliberations. I am open to any further suggestions along those lines. Simply because we are scheduled to sit till four o'clock, I do not know that we really have to sit till four o'clock unless we have something to deal with.

Mr. Bernier: This report could be very valuable when we come to make our own recommendations. I think we can refer to it on a regular basis. It is well put together and I compliment the chairman on his efforts.

Mr. Chairman: Spoken like a true Tory.

Mr. Philip: If it were such a good report, why did it not deal with the problems the member has in Kenora?

Mr. Richmond: Before we adjourn, if I could just get the members' direction here, one of the things I am doing on the list I have here is that I am going to chase up a sampling of municipal bylaws that deal with the tourist exemption-zoned business. A number of you have served on municipal councils. Since we are in the early stages, maybe you could give me some direction as to specific municipalities that the committee members are interested in so that I could make sure I contact them. I think you mentioned Burlington.

Mr. Ward: Hamilton-Wentworth. However, it did not proceed past the draft bylaw.

Mr. Richmond: Off the top, I would suggest clearly the city of Toronto with the problem we have here.

Mr. Shymko: Kingston because of the unusual thing of the public holidays.

Mr. Richmond: Kenora because clearly what everyone assumes to be a tourist area was turned down.

Mr. Bernier: We should look at Fort Frances too and Sault Ste. Marie, because they are border towns.

Mr. D. W. Smith: What about Sarnia? It is another border town.

Mr. Philip: You can do the same thing with Etobicoke and Mississauga.

Mr. Chairman: Is that enough? I think that is a good representative cross-section.

Mr. Richmond: Kingston, Cornwall and Ottawa.

Mr. Chairman: Okay. That is enough.

Mr. Richmond: Okay. That will keep me out of mischief.

Mr. Chairman: Are there any other matters to raise? Notice tomorrow's agenda. We commence at 10 o'clock. We have four presentations throughout the day of an hour each or half an hour for any one of them.

The committee adjourned at 3:16 p.m.





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SELECT COMMITTEE ON RETAIL STORE HOURS

RETAIL STORE HOURS

TUESDAY, FEBRUARY 17, 1987

Morning Sitting



SELECT COMMITTEE ON RETAIL STORE HOURS

CHAIRMAN: O'Connor, T. P. (Oakville PC)

VICE-CHAIRMAN: Guindon, L. B. (Cornwall PC)

Barlow, W. W. (Cambridge PC)

Bernier, L. (Kenora PC)

Morin, G. E. (Carleton East L)

Philip, E. T. (Etobicoke NDP)

Reville, D. (Riverdale NDP)

Sargent, E. C. (Grey-Bruce L)

Shymko, Y. R. (High Park-Swansea PC)

Smith, D. W. (Lambton L)

Smith, E. J. (London South L)

Also taking part:

Smith, D. W. (Lambton L)

Clerk: Mellor, L.

Clerk pro tem: Deller, D.

Staff:

Richmond, J., Research Officer, Legislative Research Service

Witnesses:

From the Canadian Federation of Independent Grocers:

Wilshaw, A. G., President

From the Concerned Business People of Stratford, Ontario:

Donaldson, J., Proprietor, Lori-Jo (Stratford) Ltd.

Thompson, Dr. D., Minister, Knox Presbyterian Church

Appleton, A. J. S., President, A. D. Appleton Enterprises

From the Retail Council of Canada:

McKichan, A. J., President

Fruitman, M., Manager of Research



SELECT COMMITTEE ON RETAIL STORE HOURS

Tuesday, February 17, 1987

The committee met at 10:13 a.m. in committee room 1.

RETAIL STORE HOURS

Mr. Chairman: I see representatives of all parties and a quorum present and we should therefore get under way. We are somewhat late already. This morning is the first of our public hearings with deputations from persons who have indicated their desire to address us on the subject of Sunday shopping and store hours in Ontario. Our first deputation this morning is the Canadian Federation of Independent Grocers, represented by Tony Wilshaw who is the president of that association. We welcome you here today, Mr. Wilshaw.

By way of brief explanation, our format is such that you are free to provide a written brief, which I believe you have; everyone has a written brief. You may wish to read that brief or briefly skip through it as you see fit. Take what time you deem necessary, following which we would like an opportunity to ask you some questions on the brief and on your presentation. You are slated for half an hour. We have started some 13 minutes late so do not worry about concluding at 10:30 a.m. We will allow you the full half-hour if you wish.

CANADIAN FEDERATION OF INDEPENDENT GROCERS

Mr. Wilshaw: We certainly welcome this opportunity to speak with regard to Sunday opening.

It is interesting that from a survey we conducted with our 1,500 members in Ontario in August 1986, we found that independent grocers had strong feelings both for and against Sunday opening. Nevertheless, the vast majority, 71 per cent, were opposed to Sunday opening, the primary reason of course being that owner-operators, particularly in our industry, work very long hours already with six-days-a-week opening. If the doors are open on a seventh day, in effect they will be working seven days a week.

The independent grocers who do wish to open on Sundays base their desire on economic necessity because they are in tourist areas or perhaps are meeting special demands at seasonal times.

In the majority of cases, our members have been scrupulously complying with the present requirements of the Retail Business Holidays Act. Frankly, they do so because the threat of \$10,000 fines more than offsets the potential profits that our kind of operator could make on a Sunday. However, in the immediate pre-Christmas 1986 period, independent grocers were forced to follow the lead of the food chains and open on Sunday regardless of the potential fines. They did this to preserve their existing business base. They could not see that threatened by having their customers shop at the chain stores.

While the majority of our membership clearly favours restricted Sunday shopping hours as provided for by the Retail Business Holidays Act, it is clear that within the present act there are certain ambiguities that we feel

must be corrected. When these regulations became law, the distinction between various competing retailers, for example, food stores, drug stores, gas stations, etc., was much more clear-cut than it is today. In the present market environment, we have drug stores with food departments, food stores with pharmacies, gas stations selling food and food stores selling gas.

Based on our experiences in other provincial jurisdictions, we would make the following recommendations for amendments to the present Retail Business Holidays Act:

First, with regard to drug stores, special provisions in the present act permit drug stores of any size to open on a Sunday, providing they are not staffed by more than four people. We feel this should be eliminated to place this class of retailer on the same basis as all other retail stores. At the very least, it should be clearly established that contract labour, for instance, security, should count in the number of employees who are working in a store on a Sunday and double shifting should not be permitted.

We have many drug stores now that are larger than many of the food stores in this province. They are permitted to open. Clearly, the larger the store, the greater the risk of pilferage and therefore this need for staff over and above the four people permitted by the law. So they are bringing in contract security help and in effect getting around the provisions of the Retail Business Holidays Act.

Second, with regard to tourist areas, the power for municipalities to approve Sunday opening in designated tourist areas should be removed. Literally every municipality in this province could call itself a tourist area. We have seen numerous examples of municipalities allowing businesses to operate based on very minor tourist business. It is clear from this experience that full control over Sunday shopping should be exercised by the provincial Legislature.

It is interesting to note that British Columbia now has wide-open Sunday shopping due to that province's government delegating authority to the municipalities, which one by one capitulated and permitted stores to open. We had a situation in British Columbia on one side of the street belonged to one municipality and they were permitted to open. Of course, there was pressure on the other municipality on the other side of the street. Literally like a pack of cards, each municipality collapsed and gave in to Sunday opening. I think that threat will exist if any power is delegated to the municipal level.

Third, with regard to store size, the present regulations permit food stores with a selling area of up to 2,500 square feet to open with no more than three employees. Drug stores of any size may open as long as they do not have more than four employees. In the case of food stores, this has led to larger stores opening and sections being roped off. I am sure we have all seen food stores with ropes up to say, "You cannot go in here." This is a farce. I think it suggests this practice should be forbidden. Food stores and drug stores should be placed on an equal footing within whatever amendments are put forward.

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Fourth, on the question of fines, the present maximum fine of \$10,000 is certainly a powerful disincentive for the small businessman to open on a Sunday. However, large chain grocery superstores may well do over \$200,000 in sales on a Sunday, so payment of the fine becomes quite affordable. We would



recommend that maximum fines be significantly increased to at least \$50,000, or perhaps related to the selling space open for business, for instance \$1 a square foot. An average superstore in the grocery industry today may run 70,000 to 100,000 square feet. That gives you some indication of the size of the fines we feel would be appropriate.

Notwithstanding these comments with regard to deficiencies in the present Retail Business Holidays Act, independent grocers do recognize that there are sociological changes taking place with husbands and wives working and therefore many people do welcome the addition of Sunday to their weekend shopping opportunities.

It may well be that public pressure will continue to demand Sunday opening. As we see it, the problem may well be to decide how widespread this should become, particularly with concerns being expressed with regard to the impact on family lifestyle. Some families may find themselves just not able to get together on a weekend because one partner or the other is working.

If this committee should feel that it wishes to go part-way to meet what may be a perceived public demand for increased shopping facilities, but at the same time meet the various social considerations, we would suggest that consideration be given to developing legislation favourable to small business that would permit the opening of all classes of stores, providing the number of employees is restricted. For example, Manitoba has in place legislation of this nature which permits businesses of any size--there is no square footage requirement--to open their stores so long as they do not use more than four employees to conduct their Sunday business.

These are our thoughts with regard to Sunday opening.

Mr. Chairman: Thank you, Mr. Wilshaw. It is a very comprehensive brief. I have on the list for questioning Mr. Reville, Mr. Philip and Mr. Bernier.

Mr. Reville: Thank you for your presentation. Can you tell me whether your views on drug stores include concern about the current exemptions in the act with respect to selling strictly pharmaceutical products and products on prescription?

Mr. Wilshaw: No, it does not include that, but there is clearly a blurring of definitions in today's marketplace. We are certainly not concerned about the dispensing of necessary medicines, but whether it is possible to segregate those from the kind of environment a drug store represents in today's marketplace is another question. We might well end up with the situation of people ducking under the ropes and grabbing whatever they want. If it is restricted to medication, we certainly have no problems with it.

Mr. Reville: You have suggested that the power municipalities currently have to designate their municipalities or parts thereof as tourist areas is subject to some abuse and you recommend that it be deleted. What would you think about a stricter definition of the notion of "tourist area"?

Mr. Wilshaw: If it is possible to come up with such a stricter definition, that would certainly be preferable to the present Retail Business Holidays Act. I suspect there would be significant counter-lobbying by those groups that are exempt. From our perception, it seems almost impossible to designate what is a tourist area and what is not. We know there are situations right now where appeals have been made in municipalities because they are on a



route to the ski slopes and do not open. I think about the municipalities on the 120-odd miles I might drive through to the Kawarthas to ski. If all of those municipalities could claim that I represent potential tourist business, which I suppose I do, it would seem almost impossible to define a tourist area in this province.

Mr. Reville: Are you familiar with the situation in the city of Toronto, the three tourist areas that exist here?

Mr. Wilshaw: Indeed, yes.

Mr. Reville: So your position would be that is a particularly good example of how this designation is abused.

Mr. Wilshaw: I think so. It is part of the difficulty of trying to call anywhere a tourist area in this province today. We are selling the whole province as a tourist area. It seems as though one has to try to avoid this tourist designation and try and place all retailers on an equal basis without resorting to a tourist definition.

Mr. Reville: Flowing from that recommendation is that municipalities have no control over retail store hours at all. I think you said that at the top of page 4.

Mr. Wilshaw: I suppose they should be permitted to legislate the actual opening hours, excepting Sunday.

Mr. Reville: Do you not think a municipal council is in a pretty good position to take the pulse of its own community?

Mr. Wilshaw: Yes, if the province wants wide-open Sunday shopping and allows that to happen. We have seen what took place in British Columbia. They did that. They held plebiscites in each municipality. One by one the pressure built and each municipality went. You now have wide-open Sunday shopping in Vancouver and British Columbia. We have seen the same thing tending to happen in Alberta. The pressure appears to be growing from the west, in effect, for more jurisdictions to open up to wide-open Sunday shopping. I think that becomes the thin edge of the wedge.

Mr. Reville: You do not think that any municipality could really resist the pressure.

Mr. Wilshaw: I do not think so.

Mr. Reville: If the provincial Legislature puts this decision in the hands of municipalities, it is more or less saying that it wants wide-open Sunday shopping.

Mr. Wilshaw: Yes, I believe that is the case.

Mr. Reville: In terms of your membership, I can understand why many of your members would not want to open on Sunday in terms of the hours that they and their families are already working. If there were wide-open Sunday shopping, would many of your members be forced to stay open?

Mr. Wilshaw: Absolutely. We saw that in the pre-Christmas period where reluctantly our stores were forced to open, following the lead of the chain grocery stores. Ours is a very competitive business. We do not want to

see our customers move in a different direction and shop in a different store on any day of the week.

Mr. Reville: Would your people lose money then?

Mr. Wilshaw: If everybody was open on Sundays?

Mr. Reville: Yes.

Mr. Wilshaw: I think we would then be faced with increased overhead for very little additional business, if any incremental business.

Mr. Reville: Do you think you would lose market share as well?

Mr. Wilshaw: Yes, we would, because there does seem to be a tendency for people to look for a day out, if you like, with the family on a Sunday. They tend to gravitate to the larger shopping centre facilities and not so much to the independent stores. Again, we saw examples of that in the pre-Christmas period in New Brunswick, for instance, and I think we would see the same thing here. It would be a threat to small businesses if we had wide-open Sunday shopping.

Mr. Reville: What proportion of your membership is small enough now to stay open on a Sunday?

Mr. Wilshaw: Most of our operators are not allowed to open. Numerically, a greater number is permitted to open in terms of the business transacted. A smaller number is doing more of the business. Our membership would include stores under 2,500 square feet, which are permitted to open, but a large number of stores are in the 15,000-square-feet-and-over category and they will be doing the lion's share of the business. They are exempt right now.

Mr. Reville: Just so we can get some idea, is the standard convenience store under 2,500 square feet?

Mr. Wilshaw: Yes. The standard convenience store would be under 2,500 square feet. This is not my constituency. They have deliberately sized their stores to stay within the present Retail Business Holidays Act, so their selling area is 2,500 square feet, usually right on.

Mr. Reville: You could run a store like that with two to three employees.

Mr. Wilshaw: You can certainly run a convenience store with two to three employees and you may well be able to run a slightly larger store than that. The lack of supervision, as you get up into larger square footages, does start to make it more difficult. There are Safeway supermarkets open today in Manitoba with four employees. These tend to be smaller units.

Mr. Reville: They could 10,000 square feet.

Mr. Wilshaw: There could 10,000-15,000 square feet or so and they can open with four employees. Eliminating the square footage requirement and allowing the operator to staff with a restricted number of employees becomes self-restricting, I think. It provides slightly increased shopping facilities perhaps, but because of security aspects there is a limit so long as no contract labour is allowed to enter the store and provide additional security.

Mr. Chairman: Can I interrupt at this point and just let members know I have seven names on the list. We have about 15 minutes to go. I am wondering--

Mr. Reville: Why do I not cease questioning and let the others carry on?

Mr. Chairman: Thank you very much, Mr. Reville. That was what I was going to ask you.

Mr. Philip: I found one of your more interesting points to be the one related to the flexibility in the amount of fines related to floor space. Would you not agree though, that floor space is not necessarily directly related to profit or to volume of sales?

Mr. Wilshaw: Yes, I am perhaps focusing rather narrowly on our own industry where it is directly related and perhaps it would not be appropriate for other trading categories to have a square footage fine.

Mr. Philip: Would you be comfortable with a sliding fine based on volume of sales in dollar figures or on profits, for example, a fine equal to the amount of estimated profit taken in for a particular day on which it was open?

Mr. Wilshaw: Certainly, we would be interested in seeing a more onerous penalty on a operator who defies the law, if it is possible. I am not sure how that might be calculated. We operate in a very low profit margin industry where net profits might run one or two per cent of sales.

On the other hand, gross profit would be, say, 20 per cent. So it depends on how you calculate profit on that given day. Is it incremental contribution to overhead or is it the average net profits over the year and so on? We are looking for something a lot stiffer than the present law and that might be an appropriate formula.

Mr. Philip: Various statements have been made that Sunday openings are in fact inflationary. You have taken the corollary of that which is that it costs your owners money. Would you also believe that by staying open seven days a week rather than six days a week the consumer ends up paying more?

Mr. Wilshaw: I think inevitably in our industry that would have to be the case. As I indicated, we operate with very small margins, one or two per cent net and if you have those additional costs of labour on a Sunday without really incremental business, clearly there is an additional cost that has to be passed along in the long run, assuming everybody opens, the pie stays the same size and the slices just become a little thinner.

Mr. Philip: Some people have suggested it would be okay for everyone to stay open provided labour laws were enacted to protect the employee from working if he did not wish to do so. In your experience, is that practical?

Mr. Wilshaw: Yes, I think it is practical and I think it is something that is socially desirable. Certainly in many of the small communities in this province, our members are part of the fabric of that community and concerned about their social responsibilities and I think they would see no problems and in fact would welcome that employees should not have to work on a Sunday unless they wished to.



Mr. Philip: Would an employee who refused to work be seen in some way as unco-operative and thereby affect his later promotion?

Mr. Wilshaw: I think that is a possibility, but I cannot speak for every operator and suggest everybody would be as generous as I am sure the majority would be in this regard. However, that is a threat; it is a risk, but generally there seems to be plenty of people willing to work on Sunday, particularly on a part-time basis should Sunday opening be widened.

Mr. Philip: I have one last question. You talked about how when the power is given over to municipalities that invariably pressure comes for those municipalities one by one to opt for Sunday opening. One of the examples we can take is West Vancouver that has held out for a long time and gradually gave in to pressures because of losing sales to Vancouver and North Vancouver.

Is the pressure on municipalities in those jurisdictions that you have looked at more one of shoppers wishing to buy on Sunday, retailers who say they are losing business, or municipalities feeling they are losing business to neighbouring municipalities?

Mr. Wilshaw: I am sure the pressure originally comes from the businesses that feel they are losing out to competing retailers. Though I am sure the pressure starts there, there appears to be enough public demand for shopping on a Sunday if it is available; so it is chicken and egg thing. I am sure it originates from the retailers who will pressure the municipalities and eventually the municipalities will cave in.

Mr. Philip: It is an interesting brief. Thank you.

Mr. Bernier: I have just a couple of quick questions. Sir, you make mention through your brief of Sunday closing, specifically. You do not talk about a day of pause, thinking of Muslims and Jews on Saturday and this type of thing. Do you have any comment to make on that aspect?

Mr. Wilshaw: I am really trying to address the present Retail Business Holidays Act. I have approached things in two ways; one, to suggest changes that should take place with respect to the present Retail Business Holidays Act; and the second one essentially to broaden it, should this group feel that wider shopping should take place. I am not sure I can comment on the Sunday versus Saturday, or the religious differences.

Mr. Bernier: You make no mention of the problems with mall leases, as it relates to independents, where the lessee demands that if the majority of the stores remain open, it must remain open too. Do you have any comment to make on that aspect?

Mr. Wilshaw: I regret to say that unfortunately many of our operators are not in those kinds of premises. We were excluded due to the various financial requirements of developers. You will find that most of those operations belong to chains, not the independents. Obviously that becomes a problem. Anybody who is in a mall situation would then be forced probably to open on a Sunday due to the lease requirements of the mall.

Mr. Bernier: You mentioned in your second point, tourist areas: "Literally every municipality in Ontario could call itself a tourist area." Do you see or do you know of any abuses in Ontario with respect to municipalities designating certain areas as tourist areas? Is there abuse of that clause in this act now?

Mr. Wilshaw: I am not sure I would go so far as to call it an abuse. I do think that the present definition is so loose that I would not say that people have abused it. We can take Peterborough, with which I am familiar. I know a store on the way to Lakefield just north of Peterborough, which is permitted to open on a Sunday and yet stores in Peterborough are not permitted to open on a Sunday.

There is a store on the same Highway 28 going north to Lakefield that appealed to Lakefield municipality for tourist designation because skiers, snowmobilers or summer tourists are going north past this store. It was given a tourist designation, and yet stores within Peterborough that may be on the same highway are not permitted to open.

Mr. Bernier: Do you know of any blanket designation across the province that municipalities are abusing?

Mr. Wilshaw: No, I do not. Again, I think this seems to be perfectly acceptable under the present tourist exemption definition.

Mr. Bernier: My last question is with respect to Manitoba. I noticed you made mention of Manitoba having laws that designate only four employees. Are you aware of the problem they are having in Manitoba as of last week?

Mr. Wilshaw: I am aware of the problems there. We have a very active group there trying to represent our interests and works very closely with the Manitoba government.

Mr. Bernier: Again, because of the ambiguity of the act itself, it is very difficult to determine what they want there, so it is in an uproar too in Manitoba.

Mr. Wilshaw: Yes.

Mr. Bernier: Thank you.

Mr. Shymko: My first question relates to the concern you have about the confusion of the regulations now in terms of food being attached to or lumped with drug stores and gas stations. Do you not think that this phenomenon of a drug store-retail grocery store, pharmacy-grocery, is the result of the public need and the changing lifestyles where you need, sort of, the opening up of grocery stores on Sundays? That is why this phenomenon exists, because of that need.

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Mr. Wilshaw: I think it is a reflection of a very competitive market. Everybody is trying to get a little more business and, yes, they are catering to a certain level of demand.

If you are asking the question in terms of, do you need wide-open Sunday shopping to cater to that demand, I do not think you do. But, it may be well that some increased allowances in terms of store sizes and so on could provide it. For instance, convenience stores obviously charge a premium price and the conventional food stores tend to have more competitive pricing, and one could say: "Is it right that people have to pay a premium price on a Sunday? Should more stores be allowed to open?" Well, if the laws are relaxed a little perhaps that would be possible, and I am sure it would be welcomed by certain sectors of the public.



Mr. Shymko: But you do admit it is obviously the result of a pressure to have retail grocery stores available to the citizens of this province.

Mr. Wilshaw: I think there is a certain sector of the people who welcome that availability on a Sunday. I mean, we saw it in the pre-Christmas period where people were flocking to grocery stores. In Alberta, some of our stores there were doing up to 20 per cent, 25 per cent of their business on a Sunday. People do like Sunday shopping.

Mr. Shymko: Okay. My second question is with regard to lifestyles. You do admit that in the last two or three decades there obviously has been a change in the lifestyle, the number of women who are in the labour force and the need, in fact, of a more flexible sort of access to retail institutions.

Would you not, therefore, distinguish between a major metropolitan conglomerate such as Metro Toronto, for example, and the lifestyle changes in that region versus, let us say, Peterborough or Acton, Ontario or some other parts of the province and that it does make sense that lifestyles have maybe changed more in the concentrated urban centres than they have in other parts of the province? So it does make sense according to the lifestyle theory and concern that municipalities should have some discretion reflecting their different lifestyles in deciding in this area of opening up retail stores on Sunday.

Mr. Wilshaw: Clearly, there are differences between different municipalities. You may have a lot of shift workers in one municipality and not in another, and while I agree with your statement, I can only suggest that the consequences of allowing municipalities to decide where they fit will be wide-open Sunday shopping and other consequences.

Mr. Shymko: I agree with you. Politically, it would be a very tempting suggestion to any provincial government to pass the buck to municipalities and say: "Look, you decide. You are closer to the people." As Mr. Reville pointed out, it is closer to the democratic process, and you fear that if that is the temptation which probably existed in British Columbia as a clever way out, politically very advantageous, that if we follow this in Ontario, it will be just as well as proclaiming it universally open.

Mr. Wilshaw: I believe that to be the case. Yes.

Mr. Shymko: And you think that Acton, Ontario and Peterborough and some of the small municipalities will follow suit?

Mr. Wilshaw: I do. Yes.

Mr. Shymko: You are convinced of that.

Mr. Wilshaw: I do, because I think you will find, let us say, Oshawa will open, a place where people are working probably seven days a week in the automobile plants and Peterborough is within the Oshawa market area. Knob Hill Farms already advertises in the Peterborough papers, if you like, and clearly there will be pressure on Peterborough. I think every community links with other communities and that is why things will fall like a pack of cards.

Mr. Shymko: Well, I would like to see British Columbia and the list of municipalities which, in fact, have made a decision, and I am sure there are some that have not followed suit.



Mr. Wilshaw: Not to my knowledge in the lower mainland area where the bulk of the population is. I am not sure what the situation is in the remoter areas of British Columbia.

Mr. Shymko: Okay. My last question, Mr. Chairman, is a question addressed by Mr. Bernier, and that is some of the conflicting problems that I see with your suggestion that basically the present setup is discriminating against small businesses. You would like to see legislation that would protect the small retailers first. Do I understand that correctly?

Mr. Wilshaw: I think the present regulations discriminate against all food retailers vis-à-vis the drug stores. That is the first thing. What I suggested earlier is that if wide-open Sunday shopping is permitted, that will tend to work against the interests of small business people in this province.

Mr. Shymko: But the principle of equality applies to all. You should be fair to the small as you should be fair to the big ones. I am sure in the lease agreements as Mr. Bernier pointed out, you cannot open up the Yorkdale shopping center to the small retailers unless the Eaton's and the Simpson's stores open as well. Can you imagine Eaton's or Simpson's operating with four employees?

Mr. Wilshaw: The pressure on the small businessmen tends to come when the larger businesses are open. It may well be that through voluntary choice, even if permitted to do so, the small businesses will opt not to open if the large businesses are not open.

Mr. Shymko: You would suggest that Yorkdale, for example, should have all the small retail shops open; the big ones should be closed.

Mr. Wilshaw: I am suggesting they should have that option, perhaps, if there are changes made to the present regulations. My first suggestion is that the present regulations be tightened to eliminate inequity. There are already discriminations in the sense that drug stores of any size may open and stores under 2,500 square feet may sell food. It seems to me there are discriminations already there. Tourist areas are being designated, and so on. I am not suggesting it is easy.

Mr. Shymko: I forgot one point.

Mr. Chairman: I have three more names and we are out of time. Very briefly.

Mr. Shymko: I have one point and that is on your suggestion that fines should be related to selling space. I tell you, sir, that Mr. Paul Magder, who is the furrier in Toronto, has a very small space and he has made more money on Sunday than for the entire week. The space criteria for fines is very questionable.

Mr. Wilshaw: I would agree totally. That would only relate to our industry and therefore maybe just a levelling of the increasing in the amount of fines should be pressed.

Mr. Barlow: Just a couple questions. My third one was to deal with fines, and it has already been well covered. After the hearing of delegations from all across the province, if this committee were to come up with some sort of a suggestion that a certain pre-Christmas period--three, four, five weeks ahead of Christmas, that sort of thing--be separate from all the rest of the

year, could that be acceptable? How do you think your industry would react to a pre-Christmas Sunday opening?

Mr. Wilshaw: I think that might be acceptable, not as a solution, but it is something that would be accepted by our industry; it may even be welcomed. I have not canvassed our members specifically on that issue, but they may well welcome it.

Mr. Barlow: Your brief addresses Sunday openings, and that is really what this committee is about--retail store hours. We are really basically talking about Sunday. What about the other days that are covered under the Retail Business Holidays Act, such as New Year's Day, Good Friday, Victoria Day, Dominion Day and so forth. Do you feel that they should be treated the same as a Sunday, in other words, wide open, and that any store could stay open and completely eliminate those holidays?

Mr. Wilshaw: I think our members would tend not to favour that. They welcome those days off. I have not advocated wide-open Sunday shopping.

Mr. Barlow: I realize that.

Mr. Wilshaw: There may be one exception, Boxing Day, which is supposed to be a shopping day. I thought it was originally the concept of--

Mr. Barlow: Exchange your gifts.

Mr. Wilshaw: That does seem to be an anomaly. It does not particularly interfere with our business in terms of selling food.

Mr. Chairman: Thank you, Mr. Barlow. Three more names. I would ask you to be very brief.

Mr. Sargent: This is a learning process for all of us here, and I think solving this one is going to be a real tough job. Your position is defensive; that is what you are here for.

Mr. Wilshaw: Yes, it is. That reflects the majority view of our membership. It is one of not wishing to see wide-open Sunday shopping, but wishing to see some changes to the present Retail Business Holidays Act.

Mr. Sargent: You are talking against, in the west, Carnaval and Super-Super. They are the bad guys here.

Mr. Wilshaw: In western Canada? Super Carneval is really an eastern Canada store.

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Mr. Sargent: SuperSavings.

Mr. Wilshaw: SuperStores, yes.

Mr. Sargent: Are you aware that the Alberta government is already on record as forbidding Safeway to open any more stores where it hurts the marketplace?

Mr. Wilshaw: I do not believe that is the case now. With respect, that was a requirement under competition laws when they were accused of

wringing independent stores and trying to put them out of business; there was a freeze put on Safeway development. I think it lasted for six years. I do believe that the freeze is now ended.

Mr. Sargent: I see.

Mr. Guindon: Mr. Wilshaw, in your submission and in your answers to the members, I feel that you are telling us that the large corporations would like to control, if I may use that word, the produce from the farm right to the table of the consumer.

Mr. Wilshaw: I do not think my brief is quite that wide. I think that might be another brief. No, I am not really saying that, nor am I suggesting that large stores wish to open on Sundays. I do not believe they do, but I think that they will respond to the pressures of the marketplace and the competitive natures of their businesses.

I think we saw in the pre-Christmas period that nobody wanted to be caught napping on that issue and everybody wanted to be ready to go. I think in the case of large food stores, as well as independent food stores, we are feeling pressure from drug stores, which seem to be able to slide under the present regulations. They are becoming more and more powerful in this province. They have taken over many of the former Dominion store locations, and I think that is seen as being an inequitable situation.

I am not suggesting that the chain stores wish to open on Sunday in the food business any more than independents want to.

Mr. Guindon: I have a couple of quick questions. You mentioned a while ago that some of your members were open on Sunday and they increased their sales by 20 to 25 per cent. Oh, you did not say that. I said that. They sold 20 to 25 per cent of their weekly sales on a Sunday. Did weekly sales increase by that much?

Mr. Wilshaw: No. This was in Alberta a couple of years ago. The independents were the first ones to open in Alberta. The chain stores with their labour contracts were not initially able to open. Some independents did. They were permitted to do so and they found that Sunday was a tremendous day, accounting for, as I mentioned, up to 25 per cent of their weekly sales.

What happened in the long run, however, is that new labour contracts were negotiated in Alberta. Generally, a premium of \$1 per hour over the basic wage rate was negotiated, and then the chain stores in Alberta like Safeway opened up and that sales percentage ratio for the independent dropped. It was a very short-lived gain and benefit and now in Alberta we pretty well have wide-open Sunday shopping. We have those incremental costs and we no longer have that large amount of business that was formerly available exclusively to us.

Mr. Ward: Just very briefly, I take it from your presentation that your biggest concern is the ambiguities and the inequities that exist in the present system. The issue of whether we need an extra shopping day really is not as critical as the issue that everybody be operating under the same rules and guidelines. I do not see how a local option could be entertained or maintained in terms of the Retail Business Holidays Act and the inequities be eliminated at the same time.

As we discussed yesterday, the marketplace does not really recognize



municipal boundaries. You were talking about your impressions of where the pressure comes from for extending store hours. Having gone through that municipally, I can tell you that the pressure comes from a lack of uniformity. When a neighbouring municipality exercises its local option, extends its hours or whatever, it is only at that point that the local retailers are interested in it at all. Is not the real solution to this perhaps to eliminate the local option and to eliminate the exemptions that are in the legislation?

Mr. Wilshaw: I think that is quite correct, and that is what I think I am advocating.

Mr. Ward: That is the crux of it then?

Mr. Wilshaw: I believe so, yes.

Mr. Chairman: Thank you, Mr. Wilshaw. You were very brief and answered the questions very well and very thoroughly.

Our next delegation is Concerned Business People of Stratford, Ontario. I believe there are three gentlemen. Would you come forward please and introduce yourselves to us? I believe you each have some written material which has been provided to the committee as exhibits 4, 4a and 4b.

Perhaps in the order in which you wish to proceed you would go ahead and provide us with your thoughts, following which we will ask you some questions, if we may. Good morning and welcome.

#### CONCERNED BUSINESS PEOPLE OF STRATFORD, ONTARIO

Mr. Donaldson: Good morning. My name is John Donaldson. I am a grocer from Stratford. I operate an independent supermarket of 15,000 to 16,000 square feet.

Mr. Chairman: Perhaps the other gentlemen could introduce themselves, and then we will go ahead with your remarks.

Dr. Thompson: I am David Thompson, a concerned citizen and a minister of a Presbyterian church in Stratford.

Mr. Appleton: My name is Andrew Appleton. I am president of A. E. Appleton Enterprises. We operate six stores, five of which are in mall locations across southern Ontario and one of which is a downtown core area store.

Mr. Donaldson: Our government is to be congratulated for bringing the Retail Business Holidays Act into being when it did. It is our feeling that the act must be maintained and strengthened to wash out any inconsistencies. It is an essential law that gives everyone that one universal day in the week to rest or to be with family and friends.

The designation of a tourist area should be a provincial decision made in conjunction with municipalities, and the final decision designating a tourist area should be up to the provincial government.

Wide-open Sunday shopping will cause prices to increase. There will be more labour costs, more utility costs and more security and maintenance costs. It will cause taxes to increase, because the cost of policing, social problems and family problems will increase. It will mean the loss of that one day in the week, Sunday, when family and friends can be together.

The provincial government is spending vast sums of money on downtown redevelopment. If wide-open Sunday shopping is allowed, downtown business cores will suffer drastically; sales figures in the west prove as much as 40 per cent lost.

The government is using millions of dollars to sponsor small business. If we allow wide-open Sunday shopping, we will have many small businesses, which are the backbone of our nation, going bankrupt. Small businesses do not always have the option to locate in large malls, thus reducing competition.

Businesses are renegotiating labour contracts to include Sunday as a regular working day. If this is allowed, industry will make Sunday just another working day. For all industry it will be Monday seven days a week.

For those stores violating the law, a substantial minimum fine should be initiated as well as an increase in maximum fines on a scale of some type, for example, size of store, store sales, number of violations, etc.

The results of a newspaper ballot survey done by a group of retailers in Stratford indicates that the Stratford community strongly opposes wide-open Sunday shopping.

The relaxation of any Sunday opening law is certainly going to interfere with that one day in the week when families can come together: Sunday, that common day which people must have off.

Dr. Thompson: Mr. Donaldson has asked me to take over at this point. Under the present legislation we would like to make some suggestions, six or seven, if that legislation is to be maintained. There is also a smaller report to the select committee in the two paragraphs that follow.

We think the Retail Business Holidays Act must be maintained and strengthened. The provincial government has to clear up the inconsistencies in the law if it is to be maintained. We also feel it is a provincial law. The administration should remain with the province and not be passed to the municipalities.

We believe there are a number of problems with the tourist area designation and we think that designation should be the responsibility of the provincial government, in conjunction with the municipalities, with the final decision remaining with the provincial government to prevent abuses. Let substantial fines be initiated, with an increase in maximum fines on a suitable scale of some kind.

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We think there is going to be a challenge under the equality provisions of the Charter of Rights in Stratford and area and we believe that challenge will be successful in consultation with Stratford area lawyers. If that happens, we suggest there be a minimum number of employees used as a criterion for opening, for example, as in Prince Edward Island, three including the owner, rather than other criteria such as square footage or type of business, which might offend under the equality provisions.

Sunday is basically a pause day to be with family and friends. There would be very serious consequences if that pause day is lost from our society.

We have appended to the submission a letter from the Stratford and



District Labour Council. We have also appended a couple of pages with some advertising from the store owner on my left. There is a staff report from the Beacon-Herald in Stratford, headlined "Churches Seek Boycott of Stores Open Sunday." This was a very successful boycott by the churches in Stratford, producing between 10 and 15 per cent business to small owners who resisted the charge to open.

A & P stores opened; Loblaws opened; the man on my left decided to stay shut. I took him into my church on a Sunday morning and asked him why. His business has improved, which proves the church influences business.

You will see a letter, "Wake Up to Reality," which puts the other side. You will also see the letter of the wife of the manager of Woolco, which was going to be forced to be open. One of the problems we experience in Stratford is that, as a small community, we dislike submitting leadership to outside forces, particularly if we think they are negative. The store owners told the stores in Stratford, including A & P and Woolco, that they would have to open. None of the managers of those stores wanted to open. There was a real loss of leadership in the community at that time, and we were upset by that.

I mentioned that we think there is going to be a successful challenge. Why do we think that? First, Staffen's in St. Marys is already making such a challenge. I know the lawyer who has been retained. and he believes that challenge will be successful. Lawyers in Stratford who have no connection with the Staffen's charge, but who are aware of it and the Magder case, believe this is going to be a successful challenge under the equality provisions of the Charter of Rights.

In Stratford, we are concerned that if this challenge is successful and there is no legislation in place, then it will simply be wide open. If it is wide open, we believe it will be exceedingly difficult to get it back again. In our society, the historical trend has been to open a little bit more and a little bit more. This would open the floodgates, and then I believe it would be very difficult. I am not saying our government is weak; I am saying I think it is reluctant to legislate something that could open a floodgate.

We believe that if there is a successful challenge under the Charter of Rights, by the large chain stores in particular, citing unfair competition by smaller stores that can meet the requirements of employee numbers and square footage, the majority of the citizens of Stratford would prefer to see all stores closed, rather than all stores open. A pause day should be a mandate and a right for all citizens, and the pause day should be Sunday.

Interestingly enough, all the major Jewish-owned businesses in Stratford would agree that Sunday should be the pause day. We believe it is very important to maintain in our society a time when the community can get together. For instance, if the pause days were split up over the week and we went to a six-day work week with a person having a day off on Monday, Tuesday, Wednesday or Thursday, we would lose basic community, the chance to get together to have fun and do events together. We believe it would be a disaster for everybody to work staggered days.

Further, if there is a successful challenge under the equality provisions of the Charter of Rights, legislation should be prepared and ready to put in place before the Supreme Court rules on the matter. If this is not done, we believe it will open the floodgates.

Mr. Appleton: During the month of November, prior to the Supreme



Court decision on Sunday openings, I personally was very concerned about what was going to happen had the Supreme Court decision gone the other way and opened the floodgates for stores to open. I took it upon myself to phone 27 of my fellow merchants in Stratford and say, "We have to do something about this." All 27 agreed with me; 25 of them agreed to support me financially to place this advertisement in the Stratford Beacon-Herald.

The advertisement basically says that if we open on Sunday, everybody loses through an increase in prices and taxes will go up due to increased family support services, family breakdowns and increased law enforcement. We strongly believe that the family is the centre of our community and Sunday shopping will advance the breakdown of the family unit. There are some other points. If stores start opening on Sundays, then it is only a matter of time until industries do so on a much larger scale. Sunday will not longer be sacrosanct as a day of rest.

We also included a ballot with a survey for people to return. It is interesting that we had 922 ballots returned to us which supported our position and 126 returned which were against. This adds up to 1,050 ballots with nearly 90 per cent supporting Sunday closing. I should also add that the circulation of this newspaper is 13,000, so we had about a nine per cent return ratio on this ballot, which is considered to be exceptional. Five per cent is considered to be excellent. Obviously, there is strong support for the position.

On hearing the previous speaker, the law has to be changed to the point of view that it has to be a double-barrelled thing where we have designated tourist areas and designated sizes of stores that can open, so they work in conjunction with each other. The real crux of the problem comes down to defining a tourist area. I would put it to you that a tourist area is an area to which a substantial number of people come from outside of that community during the Sunday or the given day for a reason other than shopping; in other words, an area like Grand Bend, Ontario. A lot of people come into Grand Bend because they enjoy the beaches, not because of the shopping. It is necessary for Grand Bend to have some retailers open to support those tourists and to support the services, but the stores themselves should not be the prime attraction.

Mr. Chairman: Thank you very much, gentlemen. Did you have something to add, Reverend?

Dr. Thompson: I have a petition from St. Andrew's Presbyterian Church in Stratford. Could I read the petition and then leave it with you? Would that be all right?

Mr. Chairman: Sure, that is fine.

Dr. Thompson: We, the undersigned, hereby express our concern with the growing erosion by corporations and businesses of Sunday as our community's one day of rest and relaxation.

There is a need for society to have one day off together in each week. Sunday is a day of corporate worship for the Christian churches and a day of rest and relaxation for the family and whole community. This cannot be maintained by permitting retail enterprises and others to open for business, other than those who offer for sale only essential necessities.

The Sunday employment demands placed on the employees of retail

businesses and other support concerns make it difficult to maintain jobs if they refuse to work on Sunday. Similarly, they find it difficult to maintain their family lifestyles if they have to work on Sunday.

Such changes are unnecessary. There are already six days of the week to enjoy shopping.

Accordingly, we request those in government to recognize these needs and to exercise diligently their powers and responsibility to make sure there is in place adequate legislation to protect the principle of Sunday as a day off for society.

That is from one concerned church.

Mr. Chairman: Perhaps we could receive that as exhibit 4C. We will make a copy of it and return the original to you, if you wish.

Dr. Thompson: You may keep the original.

Mr. Chairman: All right. Thank you.

I have on the list five questioners. Mr. Bernier first, please.

Mr. Bernier: I compliment you on your very interesting presentation. I personally admire the very strong position you advanced.

I have a couple of questions. When you point out in the opening page that if there were wide-open Sunday shopping, family problems would increase, how do you tie family problems to the open shopping policy? Could you explain that to me?

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Mr. Donaldson: First of all, the family has to have some time together. At the present time, the only day families really have together is Sunday. I have many employees who work for me. Either the mother or the father is working on Saturday. The other parent is at home with the children. On Sunday they look forward to that one day when all the family can be together.

Mr. Bernier: It is the employees of the stores whom you are concerned about.

Mr. Donaldson: Yes. It is not only the employees; it is everyone. If mother and dad are out shopping on Sunday, where are the kids?

Mr. Bernier: They do not have to shop on Sunday.

Mr. Donaldson: No. If stores are open on Sunday and mother and dad do go out shopping on Sunday, the children are at home. In our community the number of people who are in retail--I think there are 25 per cent of parents working in retail--will cut into it drastically.

Mr. Bernier: The employees would be your biggest concern, then?

Mr. Donaldson: Employees are part of our concern, but also parents. Hockey on Sunday: The parents go to the hockey game or ball game with the kids. That is the one day in the week when I can see my kids playing hockey, mother and dad together.

Mr. Bernier: Tourist area designation: You make a very good point. There should be a joint responsibility, but do you know of any abuses under the present system in your area?

Mr. Donaldson: Yes, there is one within 12 miles of Stratford. Mitchell opens up on Sunday from Thanksgiving Day until the end of December to accommodate the snowmobilers and the skiers travelling through Mitchell.

Mr. Bernier: That is legitimate tourism, then.

Mr. Donaldson: How much skiing is done between Thanksgiving and the end of December? Really, we do not have any snow until the middle of December.

Mr. Bernier: I see. Thank you very much.

Mr. Reville: Has there ever been an attempt to have Stratford designated a tourist area?

Mr. Appleton: It is.

Mr. Reville: It is. In fact, you do have an open Sunday in some respect now.

Mr. Appleton: Four hours.

Mr. Donaldson: Yes, the city passed a bylaw some time ago that said retailers can open four hours on a Sunday to accommodate tourists who come to the theatre.

I should point out that very few retailers take advantage of this, and those who do--we are one of them, so I can tell you from personal experience--do not do a large amount of business in many cases.

Mr. Reville: There is a four-hour Sunday opening designation there.

Mr. Appleton: Yes.

Dr. Thompson: Just during the summer months, during the theatre.

Mr. Reville: Does that fit in with the definition that they are there to go to the Stratford Shakespearean Festival?

Dr. Thompson: The idea is that the stores that are open would be stores that would appeal to tourists primarily. For instance, Bradshaw's China, Watson's Bazaar, the sort of stores that people would wander into in between times at the Festival Theatre. They also wander into the church that I serve as well.

Mr. Reville: Do you object to that? Is that a problem?

Dr. Thompson: No.

Mr. Reville: I would be interested in your notion that a tourist area should be only those areas into which people come for some other reason than for shopping. You may know that there are three tourist areas designated in the city of Toronto. I suspect that people go to them only for shopping, not for other reasons. Do you have any comment on that? Do you have any suggestions on a way that you could take somebody's tourist area designation away from him without creating a revolution?



Dr. Thompson: The only suggestion I would have is that you would have to take it away from everybody.

For instance, if you are down at Harbourfront and you want to go out on a Sunday and you want to go to the antiques and shop down there, this is entertainment. If you want to have brunch at the hotel, this is entertainment, or if you want to have a boat ride. That is why it is designated as a tourist area. I do not think you are going to be able to take it away without public protest. I think there is a difficulty there. If it were taken away universally, then there might be a universal complaint, but they might live with it.

Mr. Reville: I imagine the Harbourfront merchants would suggest that if you took away their Sunday opening privilege, they would go broke.

Mr. Appleton: May I add one thing, I think Harbourfront is seen as a playground of Metro Toronto, and as such it is probably valid that it should be designated a tourist area, because it is not just the retailers. It is the stroll along the waterfront and going across to the island on the ferry and so on that is of interest to the people who go there. I do not see its being designated a tourist area as a problem.

Mr. Reville: You are aware that the Eaton Centre wanted to be a tourist area as well? Do you know how many people go through there in a week?

Mr. Appleton: I do not feel it is valid.

Mr. Reville: Okay, fair enough. There are, in fact, three tourist areas in the city of Toronto. One is Markham Village, another is downtown Chinatown and the third is the Harbourfront. Of course, every other area in the city of Toronto thinks it should be a tourist area as well.'

Dr. Thompson: My problem with that is, if you have a business that sits right on the edge of the tourist area, what happens to that business? The man across the street is allowed to open because he is in a tourist area. He could be in direct competition with the man on the other side of the street, who is not allowed to open. That is why I think there is going to be a successful challenge under the Charter of Rights if that is done.

If the challenge is successful under the Charter of Rights, it is my opinion that the tourist area is not going to be possible to define in an equal way, so the tourist area is going to have to go. After we lose the tourist area and all of these things we have tried to do to protect it, and lose it under a case of straight justice, my question is, what goes in place at that point?

The only thing I can come up with that is absolutely fair is wide-open Sunday shopping, everybody open or everybody closed and back to essential services, which is moving back, historically, almost to the 1950s.

Mr. Reville: Thank you very much.

Mr. Barlow: On the newspaper survey you had, I think you said 27 merchants sponsored that ad. I am a little familiar with Stratford, but how much of the downtown area would that be in relationship to the membership in the chamber of commerce or something?

Mr. Appleton: This comprises most of the major retailers downtown, plus Canadian Tire out in the east end and some of the mall merchants. I think it is their general feeling. It is not one that is purely a downtown issue. As I mentioned before, I have five mall operations. I would probably benefit financially from Sunday opening, but I still will not support it, nor will I open Sunday unless I am forced to.

Mr. Barlow: Do you open your own store in the tourist season under the tourist credential?

Mr. Appleton: I have one store that is open during the Stratford tourist season, yes.

Mr. Barlow: On the tourist area, I was not aware that Stratford had only the four hours, and that is only while the festival is open.

Mr. Appleton: It is a specific four hours too. It is from 10 a.m. to 2 p.m., the theory being that the theatre starts at 2 p.m. and there are no longer tourists wandering the streets, so the stores close.

Mr. Barlow: That is all for me.

Mr. Shymko: My first question is for Mr. Donaldson. I am confused about the tourist area designation. On the one hand, you say the provincial government should designate the tourist area, and then you also say this designation should be done in conjunction with municipalities.

Currently, bylaws do it, and all bylaws are subject to provincial approval and there is an appeal to the Ontario Municipal Board, so we do have in place a municipal decision that is subject to provincial approval. Do you want to eliminate the present status quo, the present system?

Mr. Donaldson: From my point of view, if I may argue with you, it would appear that the present system is not working satisfactorily. For instance, Mitchell has its ski area from October to the end of December, but that is not a valid reason for being open on Sunday. There are situations I have heard of where municipalities such as townships outside of a city are considering applying for the classification of tourist area so that a small store in that area can open.

If this is equitable, then we can make a township around Stratford an area for muskrats or something like that. It is a tourist area now for seeing the muskrat homes and so on. Come and join us and we will put a store in there.

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Mr. Shymko: So basically the problem is that there is no clear-cut definition. It is confusing. There are no criteria.

Mr. Donaldson: That is right.

Mr. Shymko: I have a question of Reverend Thompson. I understand you are in favour of wide-open Sunday shopping, that we should either be clear in what we are doing or else open it up for everybody. Did I understand you correctly?

Dr. Thompson: I think there will be very negative consequences to society if that takes place.

Mr. Shymko: But still, did I understand you to say that you have no objection if everyone is free and equal to open up that system?

Dr. Thompson: I said it is fair. I do not like it, but it is fair.

Mr. Shymko: We look to the United States very often in progressive legislation on beer and wine in grocery stores and other things, examples we have pointed out in the US. One often says, "Look what the state legislatures are doing." Apparently, many states in the US have Sunday shopping open on a blanket type of system, wide-open shopping.

When you said that prices would increase and taxes would increase, Americans are very sensitive to any legislation that increases their taxes, certainly in prices, just as anyone would be here. Are there facts and figures to back up your contention that indeed taxes and the prices of products would go up if we were to allow a blanket open Sunday?

Dr. Thompson: Before Christmas, we were intent on researching that. After the Supreme Court decision came down, we relaxed, but we were in the process of investigating some of the things that have been happening in California.

We believe the stats are there. I would just distinguish as to whether it is progressive legislation in the US. I believe it may be regressive.

We have had a pause day in society since the time of Constantine. When we take that away, we take away part of the rhythm of society. Do you know that most people do not know what day of the week it is until it gets to Sunday, and then everybody knows? There is a reason for that. It takes a man longer to cough out what day of the week it is on a Monday than on any other day because of his reluctance to go back to work. It takes him, psychologically, longer. On the weekend he can tell you what day it is just like that, and it is because there is a rhythm in our society.

The Americans do everything and try everything. We have the chance in Canada to sit and watch them experiment, and then we can collect their data and decide. That is one thing that is great about being a Canadian. We are more conservative. We look before we leap, and we have this tremendous example of a great number of states, some of which are and some of which are not. I think the data are there.

I do think it is into drugs and into crime, and those things are soft and hard to come across, but I think you damage the family unit if you do that.

Mr. Shymko: It is just that I think we have to be careful in looking at facts and figures before we accept some premises.

The last question I have is the question of the constitutional challenge. I understand that your concern is that unless we have legislation in place prior to a Supreme Court decision, then we will be caught. There is no way out.

My understanding of the constitutional system and the framework and the process is that the provinces, Ontario included, have the right of the opting-out clauses, and we can opt out of any court decision and have legislation following that.



Mr. Appleton: My concern, at that time in November prior to the decision, was that should the Supreme Court come down in favour of allowing stores to open on Sunday, immediately, because it was the Christmas season, virtually all retailers would open up; and once that situation was in place, it would be next to impossible to backtrack.

I wanted the province to have time to give this situation careful consideration and not be in a situation where the people literally threw up their hands and said that the thing is there and now they could not do anything about it. That would have been the case had everybody opened up.

Mr. Shymko: Mr. Chairman, I think our researchers should find out whether we would have the opting-out privilege that is now in place, following that court ruling.

Mr. Philip: Reverend Thompson, you talked about recreation as being one of the exemptions to Sunday closing. Would you consider bookstores a legitimate form of recreation? Should bookstores be allowed to remain open on Sunday?

Dr. Thompson: If we keep the tourist area, I think that under the equality provisions of the Canadian Charter of Rights and Freedoms there will be a successful challenge for all stores to be open, so that would include bookstores. Bookstores can be classed as recreation. So can restaurants; so can movie theatres; so can Paul Magder, if you want to go and speculate about the fur coat you are going to buy. This is entertainment for some people; there is no doubt about it.

If the tourist area is kept, if there is a successful challenge and if we want to maintain Sunday, we are probably going to have to go to something like Prince Edward Island or Manitoba, with three employees, but all stores.

Mr. Philip: If it is not a tourist area, since certain types of stores sell books--and indeed now, under the current law, video stores are allowed to remain open on Sunday--do you see bookstores as being similar to movie houses, video rental stores and drug stores that sell books? Is there an inequity in there, and should bookstores be one of the exemptions? If one can buy a Penthouse magazine on Sunday, should one be able to buy Margaret Atwood on Sunday?

Mr. Barlow: Or a Bible.

Dr. Thompson: Or go to the racetrack on Sunday.

Mr. Philip: Yes.

Dr. Thompson: I see those as all inequities in the law. If you can pick up a Penthouse in a drug store, I would say that you should be able to pick up the Bible in a bookstore.

Mr. Appleton: May I respond to that?

Mr. Philip: Yes, Mr. Appleton.

Mr. Appleton: Part of our business is the book business, and I would strongly disagree with opening on Sundays for the book business. We are currently open, depending on location, between 66 and 72 hours a week. The average person is employed between 35 and 44 hours a week, which gives him at

least 20 to 30 hours a week when he can shop when is not working. It seems to me this is sufficient. If a person wishes to buy a book, he has got lots of time to buy it. It does not necessarily have to be on a Sunday, and I do not think it should be on a Sunday simply because it is convenient.

Mr. Philip: Mr. Appleton, you said a tourist area would be one where people came from outside the area to participate in a form of recreation or culture that was other than shopping.

Mr. Appleton: Right.

Mr. Philip: I wonder what you would think. We are having a phenomenon in Canada now--we do not seem to learn from the experience that they go bankrupt in the United States--of having these recreation centres in malls, with ferris wheels, merry-go-rounds, children's rides and so forth.

Mr. Shymko: There is a beautiful one in your riding.

Mr. Philip: There is a beautiful one in my riding, but it is not open on Sunday.

Do you see that as a recreation facility? How do you distinguish?

Mr. Appleton: I think that is a recreation facility, and I would not object to that part of the operation being open. I do not think the retailers necessarily have to be doing it.

Mr. Philip: So it would only be the rides and the restaurants that you would allow open in something like the West Edmonton Mall or the Woodbine Centre?

Mr. Appleton: If you are referring to the Woodbine Centre or that type of thing, yes.

Mr. Philip: Thank you.

Mr. Sargent: I want to congratulate the Stratford group. I thought they perhaps were going to finish with a word of prayer. I want to say that I think I am on your side, but the thing is that you speak for small business and the employees of the large chains. I think every employee I talked to in the large A & P Food Stores and Loblaws Ltd. stores are opposed to it, but it ends up that it is the buck that calls the shot. Head office calls the shot, and that is what we talking against now. The bottom line is profit.

But getting back to your claim, do you feel that convenience stores should be closed or not?

Mr. Donaldson: There are a certain number of reasons that convenience stores should not be closed. You could go so far as to say that the convenience stores are stealing business from the supermarkets, of which I am an operator. But at the same time, if you as a customer forget something and have to pay more by going to a convenience store on Sunday, that is your prerogative.

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Mr. Sargent: The markup.

Mr. Donaldson: Yes. On the other hand, if you want to save money, you will come and shop in my store on Saturday and you will not have to go there on Sunday. "

Mr. Sargent: How many employees do you have?

Mr. Donaldson: About 45 to 50.

Mr. Sargent: Could you operate with four or five on Sunday?

Mr. Donaldson: No, I could not.

Mr. Sargent: You are going to have a good case then.

Ms. E. J. Smith: Very briefly, not wanting to rehash what has been said, Mr. Reville pointed out clearly how difficult it is to define "recreation" any more. It is recreation for me to go to Harbourfront if I am in an apartment in Toronto, but it may be recreation for someone from out of town to go to the Eaton Centre, in the same sort of way. I would agree with you that it looks as if that may not stand up in the courtroom, which is what we are all going to be faced with. I gather that from your discussion with lawyers, you think a thing that could stand up in court would be the number of employees because it would be even across the board.

Dr. Thompson: Possibly. The reason I would say "possibly" is that the chains may just say: "Listen, why can we not open? You are stealing our business, so it is not fair." I believe there could be a successful chain challenge. It is not fair to say to Eaton's and Simpsons, "Sure, you can open with three employees."

Ms. E. J. Smith: It would become meaningless and it too might be challenged.

Dr. Thompson: I believe that.

Ms. E. J. Smith: What about the other thing you touched on that Stratford has, which is a given number of hours? Do you have any sense of whether that could be maintained?

Dr. Thompson: That might be more successful.

Ms. E. J. Smith: The other thing I had concern about in your presentation was that you spoke of going back to essential services, as in the 1950s. Our stores are no longer structured that way. The first essential services I think of when you say that are gasoline because we drive a lot on weekends, and drug stores because you get sick on weekends. Yet our drug stores and gas stations now all sell groceries. I guess there is one point I am making here and I do not know what the answer is: I do not think we can retreat back to the 1950s because the retailing has made that impossible.

Dr. Thompson: I wonder whether retailing has made it impossible or whether it is the Retail Business Holidays Act itself. It is my contention that the proliferation of convenience stores in our community is a direct result of the present legislation: the size of the store, the number of employees. For instance, the local 7 Eleven is not owned by mother and father any more; it is a chain. You can put these all over. You can become a chain



store that operates little, tiny convenience stores, but that is possible due to the legislation. It is implicit.

Ms. E. J. Smith: How do we get away from that? We reduce it back down to Mac's milk store which is smaller than 7 Eleven.

Dr. Thompson: The only way is to put the distinctions back. They have deliberately blurred them. You have a drug store that is selling food and all kinds of other things. The only thing you could do that would be fair would be to limit what could be sold back to essential services, i.e. milk and bread, because a person has to eat, and to drugs and perhaps gasoline. Those products would be allowed to be sold. If that was all that was allowed to be sold, I do not think they would be open, which would achieve what I think most of society wants, a pause.

Mr. Donaldson: The city of Kitchener today has only a certain number of gas stations open on a Sunday. They rotate some way or other. I do not know how they do it.

Ms. E. J. Smith: The drug stores used to be that way in London. I think it was voluntary among the drug stores. I do not know whether we could ever get back to that any more.

Mr. Chairman: Could we get back to the hearings and call on Mr. Smith for questions? We are woefully behind time.

Mr. D. W. Smith: There have been some interesting comments made here and possibly what I am going to ask has been partially answered. In the presentation you made and in the one before yours, I got the feeling, and you have said, that if it is left to the authority of the municipalities to decide whether to have Sunday shopping, it will fall just like a deck of cards and each municipality will gradually go towards that way. You want to have it left in the authority of the province.

What is the most important thing that you want the province to protect? I want to hear your comments again because I think you have likely skirted around this. You do not seem to want it left in the municipality's hands, and yet the municipality is as close to the people as anything. I have been a municipal councillor myself and we try to do what they want us to do. It seems it comes back that you want the province to protect. You want the province to keep that authority. What is that ultimate thing? Is it the family lifestyle? What really is it?

Mr. Appleton: Because of political considerations, I do not think it is possible for municipalities to be objective about whether they should open on Sundays. Stratford is a very good case in point. We are roughly equidistant between Kitchener and London. If Kitchener and London were open, it would be impossible for Stratford to stay closed because Stratford merchants would see their business disappearing to London and Kitchener at a greater rate than it is right now. The pressure would come from business to open on Sundays, which the municipality could not resist whether or not it wanted to. This is true of many municipalities in Ontario.

I do not think it is a position we should even consider. It is a universal provincial situation and this is the type of thing that is best decided by the province. No matter what the province does or what happens over

this, there are going to be a lot of people who are unhappy. Therefore, it is necessary for the province to do it, not have it on a municipal basis.

Mr. D. W. Smith: Why are the municipal leaders saying it is all right to have these Sunday openings? It seems as though we are not giving them their true authority when we elect them as individuals to speak for the people.

Mr. Appleton: I frankly do not know why they are saying they want to retain this authority. It beats me because it does not make a lot of logic to me.

Dr. Thompson: When we talked to the mayor and members of council in our municipality, they certainly did not like this decision that we as Stratford people made that this should be up to the province, and neither would I, if I were a municipal legislator, appreciate any erosion of my power. That is basically what it was all about. When we pointed out to them the domino effect that would take place between Kitchener and London, and places like Mitchell and St. Marys, they then said, "Yes, perhaps." That is the problem Mr. Appleton is stating. He is saying: "Listen, there needs to be objectivity here. If you do not have it and you do not have a decision made at the central level of government, then what you are actually deciding is to leave it up to the municipalities. Then it will free-flow and you will just have what we believe will be less than a wonderful society."

Mr. Chairman: Stratford has been well represented here this morning. We appreciate your taking the time to come and give us your views.

Our next and final deputation for this morning is the Retail Council of Canada. It is represented by Alasdair McKichan and Mel Fruitman, who are both here. Welcome, gentlemen. I apologize for the delay in getting to your allotted time at 11 o'clock. You are slated for an hour's presentation. Please feel free to use that hour. I ask members of the committee to be as brief and as succinct as they can with their questioning. We now are officially 38 minutes behind schedule. We have a bit of a break over lunch and it is not crucial, but I ask you to be brief.

#### RETAIL COUNCIL OF CANADA

Mr. McKichan: I appreciate your taking time to hear us this morning. My name is Alasdair McKichan and I am the president of the Retail Council of Canada. On my left is Mel Fruitman who is our manager of research.

I predict that our submission will be something of a disappointment to you and members of the committee and I regret that. I guess it is explained by our constituency which is very wide indeed within the retail community. We represent retailers of all sizes in every specialty and in every part of the province. For that reason, the position we are able to take is very limited indeed.

As you will have heard by this time, within the retail trade the issue of store hours is indeed divisive. Members of the trade exhibit a wide spectrum of opinion as to whether store hours should be tightly or loosely controlled, what the optimum hours of opening should be, whether these hours should or should not be established by law, how holidays, including Sundays, should be treated and what degree of local autonomy should be established. This diversity of opinion has prevented us from establishing a position on the



subject and we, as an organization, can offer only limited assistance to the committee in its consideration of the issue.

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A trade position might indeed be easier to achieve if opinion were segmented by business size, region, trade specialty or other distinguishing factors. These distinctions, however, are not readily apparent. It is perhaps not surprising that this should be so when the issue, particularly in relation to Sunday openings, is compounded of a blend of economic, sociological, religious and personal idiosyncratic influences.

On one issue there is a strong preponderance of opinion. There is dissatisfaction with the workings of section 4 of the Retail Business Holidays Act in relation to the treatment of stores within areas designated as tourist regions by municipal bylaws. Merchants whose premises are not located within such designated areas, but yet feel they are in competition with those who are, regard the provision as having capricious and unfair effects, as I guess you have heard from other witnesses today. However, cohesion breaks down in relation to proposals for correcting what is seen as a flawed provision. We are not able to offer concrete suggestions for the reform of what is obviously an unpopular provision to many members of the trade.

We assume the committee may wish to commission surveys of the retail trade, consumers and possibly other constituencies affected by store hours legislation. This council will be happy to make its views and experience available to those who are conducting that research. That basically is the main reason for our taking your time this morning.

It is our observation that in the past, in this and in other jurisdictions, research conducted to ascertain opinion on the subject has tended to be simplistic in its structure. The nature of the questions asked has often created a predisposition in the respondents in favour of the answer supported by the party commissioning the research. The research is often conducted by special interest groups. A sizeable array of different types of store hour régimes is available for study in other jurisdictions within Canada, the United States and indeed the world. It is interesting to note the recent controversy in New Zealand as to whether stores should be open on Saturday mornings, which casts a different complexion on the situation.

It might be assumed that jurisdictions with different shopping hours protocols might constitute excellent living laboratories for the effects, economic and otherwise, of various types of store hour regimes. Unfortunately, the evidence is seldom definitive and considerable interpretation has to be made in attempting to project the experience of one socioeconomic environment to a different one.

Shifts in shopping patterns and sales volumes in the before and after situation are hard to measure. A region's economy is seldom static. The experience of individual stores is likely to be different from the retail universe being studied. The position is muddled by cross-border shopping and other variables.

Economists seem agreed that consumer capacity for spending, in general and in relation to particular commodities or groupings of commodities, embodies a degree of elasticity. The extent of that elasticity and the degree to which additional volume derived through longer shopping opportunity provides a net economic advantage when weighed against increased costs



incurred to achieve it, is still the subject of much debate. So also, of course, are the sociological questions with which the committee by now will be well familiar.

In addition to discussion of such subjects as the merits or otherwise of opening on Sundays and holidays, there is also the question of distribution within a period of the hours during which stores are open. It is, for instance, a common pattern that the most productive hours for retailers are clustered at weekends and in evenings towards the end of a week. Conversely, morning hours, particularly towards the beginning of the week, are the least productive.

Questions arise as to whether there are tradeoffs to be made between these categories of hours. Here again, opinion is not unanimous. Shopping patterns vary from community to community. There are, of course, slack selling hours during the week when staff and management time can be used productively to perform necessary but nonselling functions.

As we said, we know this intervention is perhaps uncharacteristically bland. Regrettably, the disparate nature of the viewpoints within the industry militates against our taking a more dogmatic posture, but we shall be happy to do what we can to help the committee in its work.

Mr. Chairman: Thank you, Mr. McKichan. Mr. Fruitman, do you have anything to add?

Mr. Fruitman: Not at this time.

Mr. Chairman: Are you prepared for questions at this time? I have several names.

Mr. Barlow: It is an interesting brief and with your membership being so wide and diversified, large and small, I can understand--does your association have an ongoing committee on uniform store hours? I would think you would.

Mr. McKichan: No, we do not. I have been connected with this organization for more than 20 years. I cannot tell you how many times I have sat through debates on our board of directors on the issue. They always end up inconclusively and the result has always been that we agree not to take a position, but it is not for lack of trying.

Mr. Barlow: How large are the largest retailers you represent? Are they Eaton's, the Bay, Simpsons, that sort of thing?

Mr. McKichan: Yes, we have most of the large retailers, many of the medium-sized and a good cross-section of independents. Of course, by far the preponderance of our membership in numbers is independent.

Mr. Barlow: Can you see or would your association care to comment on the possibility of an increase in cost to the consumer if Sunday was thrown wide open as a shopping day?

Mr. McKichan: The evidence on that is by no means conclusive. You might care to comment on that, Mr. Fruitman.

Mr. Fruitman: We did some work several years ago trying to find out what was available by way of information, largely out of the United States at

that time. It certainly was inconclusive. To a large extent, of course, it depends on the elasticity of demand, what increases there are in sales volumes, whether they are new sales volumes or simply transfers from other days. The theory is that if they are simply transfers from other days of the week and total sales do not go up from what we do normally, obviously, operating costs have gone up and prices would have to go up to compensate. On the other hand, if new sales are generated, then it is possible costs would be recovered and there would be no need to increase prices. Unfortunately, it is inconclusive.

Mr. McKichan: There is no doubt that there is a degree of elasticity in demand. If people have the opportunity to shop more than they otherwise would, they will shop more, and they will transfer money either from savings or from other spending opportunities, but the extent to which they do that and whether that compensates for the extra costs incurred is very muddy.

Mr. Chairman: Has the council ever undertaken specific economic impact studies or do you have access to the same from other jurisdictions to establish the degree of elasticity you are talking about, the degree of cost increases on a Sunday?

Mr. McKichan: We have done no studies of that ourselves. We did a desk research job on all the material that was available on the continent some time ago. Regrettably, there is nothing very good on that subject, the reason being that it is very hard to measure.

Mr. Chairman: If you have any studies from other jurisdictions that are relevant, good or otherwise, we would appreciate receiving them.

Mr. McKichan: We would be happy to make them available to the committee.

Mr. Chairman: Fine.

Mr. Guindon: By your brief, it seems you are telling us that you are falling on both sides of the issue. Your association is not taking a position.

Mr. McKichan: We are not able to take a position. That is correct.

Mr. Guindon: Have you taken a survey of those opposed, compared to those for Sunday shopping?

Mr. McKichan: We did some years ago. We have not done so recently. We know very well from the representation on our board and committees and from our individual contact with members that there is a terrific diversity of opinion within the membership.

Mr. Guindon: I agree, but is there a pattern by store type or by sales volume?

Mr. McKichan: There is no pattern by store type or or by sales volume or by trade specialty.

Mr. Philip: What about by product?

Mr. McKichan: Or by product, although there is perhaps more clustering by product, but it is by no means universal.

Mr. Guindon: Do you think or does your association think that if there were wide-open Sunday shopping, your members could get out there and get competitive and still succeed in the business?

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Mr. McKichan: We have the model of other jurisdictions. British Columbia is virtually wide open. Not all stores open even though they have the freedom to do so, but many do. The trade does not fall apart.

Mr. Guindon: Is there a success story in British Columbia that you could share with us?

Mr. McKichan: A success story in terms of the trade behaviour?

Mr. Guindon: Yes.

Mr. McKichan: You will find within our membership those who are satisfied with British Columbia and those who are dissatisfied.

Mr. Bernier: I will ask for an observation, I suppose, since you are a national organization. I would like to point out to the committee that I appeared on a number of radio talk shows after a Supreme Court decision, and I appeared on one panel discussion on Sunday openings. On every occasion, the issue was of Canada being the last remaining civilized country in the world because we adhered to Sunday closing.

We were not like the United States. We did not want to be like the Europeans, open seven days a week. We wanted a day of pause. We were set aside from our neighbours in other countries, and we wanted to remain that way. This came through very strongly. We do not want to be Americans. We want to be different. We are different. Have you felt that in your organization at all? Has that feeling ever surfaced at all?

Mr. McKichan: Those who favour a restricted Sunday certainly espouse that feeling but, of course, there are a lot of members who take the contrary viewpoint.

Mr. Bernier: Oh, I see.

Mr. McKichan: I guess I am not very helpful.

Mr. Barlow: You ought to be in politics.

Mr. McKichan: Sometimes I think I am.

Mr. Reville: I very much appreciated your presentation. It reflects the difficulty that we are having here.

Does your counsel have views that you can share with us on the question of enforcement; whether the enforcement is viewed by your members, particularly in Ontario, as being understandable, evenhanded, effective, ineffective or idiotic? Choose some of the above.

Mr. McKichan: Our first reaction is that when we have laws, we believe in strict enforcement. A preponderance of our members were highly dissatisfied with the status of enforcement last fall, for instance, when there seemed to be unequal enforcement. Of course, you saw the reaction to



that when some retailers construed that the law had fallen into disrepute, and acted accordingly. That would be the first criterion. Certainly, there has been dissatisfaction with the level of enforcement.

Mr. Reville: Do you have any views as to whether it is inappropriate or appropriate for the police to be the prime enforcement arm of a particular piece of legislation like this?

Mr. McKichan: I find that difficult to answer in that one has to know what the alternative is, how efficient that might be and how the alternative would be treated.

Mr. Reville: We could have the Sunday shopping police who are not law enforcement officers in a general sense but in a specific sense, for instance.

Mr. McKichan: One would have to look at the results. If that were equally efficient and economic, it might be desirable to go that way to preserve the roles of the police for more interaction with criminals and the prevention of crime.

Mr. Reville: In terms of the exercise that this committee has embarked on, some have suggested that what we are seeking is a social consensus in Ontario. Can you suggest any method by which we might seek that consensus? You know what we are going to be doing. We are going to be having people in. My sense is that the people who come will, in the main, have a view on one side or the other. You are unusual, I suspect, in coming with no position.

Mr. McKichan: It would be profitable for the committee to do an adequate amount of surveying, both from the population in general and in particular segments. What appears to us to be a quite good piece of research was done in Alberta in relation to a survey of public attitudes, at least in the southern part of the province. It seemed to be a balanced type of questionnaire. The questions looked to be nondirective in their response and were quite probing in their search for, not just a simplistic, but thoughtful answer.

Mr. Chairman: Would you have a copy of that?

Mr. McKichan: Yes, we have a copy.

Mr. Chairman: Would you make it available to us?

Mr. McKichan: We can make it available.

Mr. Chairman: We would appreciate that. Thank you.

Mr. Reville: That would be very helpful to us but, of course, that is not what this committee is going to do. Regrettably, we are going to find opinion that wants to find us. The vast majority of people will not come here, particularly those who do not have a strong view. There are those who will shop on Sunday if the store is open, but probably do not care much one way or the other.

Do you have a sense, in terms of your experience of legislation--and I know you have lots because you are involved with tons of different kinds of legislation--of legislation that has exemptions such as this where it is okay

to sell a magazine but not a book? In your view, is it difficult legislation for people to understand?

Mr. McKichan: Yes. I would say that in any legislation of this type the more it is riddled with exemptions, the more difficult it is for the public to comprehend and, of course, the more difficult it is to enforce.

Mr. Reville: Do you think it would be easier for people to understand that only essentials could be purchased on a Sunday or holiday, or that anything could be purchased on a Sunday or holiday? Those are the two poles, it would seem.

Mr. McKichan: Nowadays it is very difficult to define an essential. One person's essential is another person's luxury, and vice versa. Whenever you try to do that you run into trouble.

Mr. Reville: How about nothing being sold on a Sunday? Zero. You get your essentials on a Saturday and struggle through.

Mr. McKichan: I am struggling to preserve a sense of neutrality.

Mr. Reville: I am asking your opinion because I know you have thought about these matters because you have heard a lot of opinion from your members.

Mr. McKichan: I would prefer, if I may, to stick to matters of principle.

Mr. Reville: That is very political of you, sir.

Mr. Chairman: Never be in doubt.

Mr. Sargent: I get the feeling that this is, let us face it, almost like dead on arrival. There is an old saying in business that all business is local and no one gives a damn how good their product is, it is how good their product makes them. All the forces here are looking inward at what it is going to do for them. It all boils down to what you have done here, let the marketplace control.

Mr. McKichan: The marketplace will certainly rule to the extent that it is free to do so, but obviously it is subject to restrictions of society for other purposes.

Mr. Philip: I am not being facetious with this question, but do you people have the expertise if asked by the committee--and perhaps to be financially rewarded by the committee--to do an adequate survey that you talk about?

Mr. McKichan: We would not see ourselves as being the vehicle for doing research, because that is not our function. We have too many other preoccupations. But we would be happy to act as advisers to professional people that you might retain to perform that research. Obviously, we know something about our constituency and the consumers that it serves, but we are not expert market researchers but we may be able to contribute to the design of whatever surveys you undertake.

Mr. Philip: Maybe you can comment on this. I have a scepticism of research that is of a polling type that deals with complicated issues. The

best examples I can think of--forgive me if I sound partisan with the examples I am using--are the polls that asked people whether they believed in free trade. The polls were overwhelmingly in favour of free trade until the public started to find out what free trade really meant. If you went around and asked people if they were in favour of free anything, they were in favour of it until they found out how much it costs.

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I suspect that if you do a poll that simply says, "Would you favour open Sundays?" you will get an overwhelming number of people who will say yes. However, six months later after it was completely open, if you asked how many people used it or felt strongly they wanted to use it, you might get a completely different answer.

Can you give us more specifics about the focus the research should take than that which is contained in item number 5 of your report?

Mr. McKichan: I will ask my colleague, Mr. Fruitman, our manager of research, to respond to that.

Mr. Fruitman: You are quite correct in your assumptions about the simplistic form of many questions that are asked. If you just go up to somebody and say, "Do you want stores to be open on Sundays?" the majority would probably think and answer "Yes" unless they have very strong feelings opposed. They recognize there may be days when they run out of cigarettes or milk or something and want to run out to the store to get them.

However, research can be structured and we have made reference to the work that was done in Alberta that asked the question in a more probing and thoughtful way so it did not get the top-of-mind response. It does explore without preconditioning the responses. It does try a bit more to explore what people really want and need and whether they recognize some of the issues that are involved.

As you suggest, the attitudes of people might change if stores were open for a while and then you asked them whether they were shopping on Sundays. However, you might find a lot of people who do shop Sundays simply because stores are open for them then. That is the group you previously alluded to that does not have strong feelings one way or the other.

Certainly the research can be structured to be more probing and that Alberta research came out, unfortunately, I suppose, just about split pro and con. But it was a thoughtful piece of research.

Mr. Philip: I will be interested in seeing the Alberta research and I appreciate your bringing it to our attention. One of the areas that strikes me as puzzling from a commonsense point of view is item number 6 where you talk about the elasticity that is built in.

Let me give you a very concrete example. My clothes dryer is gone. There is a repairman there today I hope, and he will come to one of two conclusions. Either it is repairable or I should buy a new clothes dryer.

Mr. Sargent: Buy a new one.

Mr. Bernier: Create jobs.



Mr. Philip: If I am going to buy a new one and if I can buy it on Sunday, I will not buy two because the stores are open on Sunday. I will buy a clothes dryer on a Saturday, Friday or Thursday evening, because I need a clothes dryer. I am not going to buy two clothes dryers.

So you could probably identify areas where that elasticity is significant. I suspect perhaps that works of art, books, magazines, novelty items and nonessential clothes might increase in sales, but there are certain things that surely would not increase such as groceries.

My family can only use as many roasts of beef as there are mouths and meals. As a matter of fact, if it is open on Sundays and I am spending my time on Woodbine, instead of going into the grocery store, I may decide to go into the restaurant and there will be less volume in the grocery store by one meal. Can you identify those products which do have the elasticity?

Mr. McKichan: Mr. Philip is correct. Some items are a lot more elastic than others, but even in the example he cites, that of major appliances, I submit there is a degree of elasticity. You may be shopping on a Sunday and see a microwave oven that takes your fancy. If you had not been there, you might not have seen it and you might not have bought it. Even items such as that have become, to some extent, impulse items.

The elasticity is much more apparent in commodities such as clothing. Everyone can use another tie or another shirt, and opportunity often breeds decision. Even in relation to foodstuffs, while it is true that we all have a two-pint capacity belly, and most of us do more than fill that several times a day, we have a choice as to the degree of luxury we will buy in our foodstuffs. If a store is open that otherwise might not be, we might buy smoked salmon instead of something else or imported cookies instead of bread.

I think most retailers agree there is elasticity; what they do not agree on is the degree to which it exists and whether its being there is compensated for by the costs of making it available.

Mr. Philip: They are not used to people of Scottish background like me who do not--

Mr. Reville: I would have thought they were very used to that.

Mr. McKichan: I am used to people of Scottish background.

Mr. Philip: We would not buy an extra clothes dryer on impulse.

Mr. Fruitman: However, there is another component to that, unfortunately, in that you may know your dryer is starting to act up but has not yet died. When it has died, then it is clearly a necessity and you have to replace it. If you know it is nearing the end of its life cycle and you happen to be in a store and see something on sale or something that attracts you, you might then make the purchase.

Mr. Reville: You might buy a clothes-line too, though; that is the other thing.

Mr. Fruitman: Who is going to hang them out?

Mr. Philip: My wife did that with the stereo, but we did buy it on Saturday.

Mr. Fruitman: Hung it on the clothes-line?

Mr. Shymko: Following Mr. Philip's dry question, I would simply like to state that Mr. Philip indicated he would be willing to be paid to do research.

Mr. Philip: There is nothing dry about the Scots.

Mr. Shymko: I congratulate you on this report. We should ask you whether you would be willing to be paid to write our report, because the issue is divisive and complex. You should be a writer for cabinet ministers. This is fantastic. You have said it so beautifully and said nothing.

I will frame point 6. I know you do not have a mandate. You cannot tell us what to do, because it is complex and divisive. Do you think we would have accomplished much more by following your suggestion, instead of forming this committee? Maybe the Ontario government should have commissioned a study and research to look at the facts and the complexity before going and seeking opinions from the public, such as the one we just heard from Stratford. They made conclusions and assumptions that Sunday shopping will result in prices and taxes increasing. Yet when I asked whether they had any documentation of facts or research to back it up, the answer was no.

I think we can be easily trapped. Do you suggest we, as a government, would have been much better off to have commissioned a study and research before going into this public opinion free-for-all?

Mr. McKichan: I do not think I should venture an opinion in relation to the manner in which the committee conducts itself.

Mr. Shymko: You are not mandated.

Mr. McKichan: I do think it would be useful to the committee if it did have research available to it at some stage.

Mr. Shymko: The whole irony of your making that statement is that you later qualified it by saying you did desk research of available facts, whatever is available now, and your conclusion was that there is very little to measure. What do you mean by that?

Mr. McKichan: You can measure public attitudes, viewpoints and so on. It is very difficult, but it is not necessarily impossible to measure the economic shifts that have occurred and may occur in certain jurisdictions. For instance, British Columbia has now had some experience of more or less open shopping on Sundays. It is probably going to be possible to do some indicative research, although it may not be necessarily tremendously conclusive.

1210

Mr. Shymko: Can you answer me with respect to other jurisdictions you referred to? Do you have anything in the desk study you have made that would substantiate or support such conclusions about price and tax increases?

Mr. McKichan: There is no evidence that prices have increased in jurisdictions with extended shopping hours. They might have, but it is difficult to measure.

Mr. Fruitman: The research which was done showed fully that there is

a lot of opinion, as you have discovered, and a lot of unsubstantiated comments, and very little true research or actual study of the effects.

Mr. Shymko: We can be trapped by following that. Is that what you are saying?

Mr. McKichan: Possibly.

Mr. Fruitman: Even in the type of situation in British Columbia where there is some experience, it is not a controlled environment. One does not know exactly what happened before. If you do measure some changes or see some changes, what were the causes of those changes? Is it simply the fact of Sunday openings or are there other factors coming in?

Again, the best research showed that that type of information, largely American at the time, was coming out; people claimed that there were increased sales but they could not substantiate this because they did not know where they had come from. It was not a controlled test in which you set up your variables beforehand and you look at why things have happened.

Mr. Shymko: I still think we should make an offer to Mr. McKichan to help us in the final draft of our report. Congratulations.

Mr. Chairman: He has offered to assist in any way he can. He is restricted though, Mr. Shymko.

Mr. D. W. Smith: This follows along the questioning of Mr. Bernier or Mr. Philip, but you have said your membership is split. I do not know whether it is split evenly, or how close. Some want Sunday shopping, some do not. Do they all want a day of closing? Is that a consensus within the group?

Mr. McKichan: No.

Mr. D. W. Smith: They want to work seven days a week?

Mr. McKichan: Some do.

Mr. D. W. Smith: They want to work for ever, I guess. They do not want to close down. That is what you are saying.

Mr. McKichan: Some would like to be able to open on every day of the week, not necessarily for eight hours on every day of the week, but some of them want to open some hours on Sunday.

Mr. D. W. Smith: If Sunday opening came in, do you see that shopping may not have to take place on the traditional Thursday night and Friday night as it does exist today? Do you see that happening?

Mr. McKichan: I would think there would be quite strong continued pressure for evening shopping on every night of the week, particularly in large metropolitan areas where you have shift workers, students and other people with night hours and there seems to be a use of 24-hour shopping.

Mr. D. W. Smith: The retailers must believe in their minds then that there are more dollars to be gained from the consumer by having longer hours.

Mr. McKichan: In general terms, it is a fact that there are. There is a possibility of varying the destination of dollars between shopping on the one hand and other spending opportunities and saving on the other hand.



Mr. Chairman: Or perhaps, for instance, if Sundays were wide open, there might be some dollars that now are put in collection baskets in church that would end up in retailers' pockets.

Mr. McKichan: That is also true.

Mr. Chairman: That is the kind of elasticity you are talking about.

Mr. McKichan: I do not think that is the motivation.

Mr. Philip: As a supplementary to Mr. Smith's question, are there demographic differences between the opinions of your members? In other words, are there differences between those of your members who are in urban areas, tourist areas, rural areas, small towns and large cities?

Mr. McKichan: Yes, I sense there are. The large urban areas tend to produce more people favouring longer hours than do the rural areas.

Mr. Philip: Are there differences as compared to size?

Mr. McKichan: It is not consistent. There are both large stores and small stores on both sides of the issue.

Mr. Philip: The position was put to me by a number of small stores, particularly in the grocery trade, that if the large stores are allowed to remain open on Sunday, they will go into bankruptcy. That is particularly true of the bakeries, where now Loblaws, A & P and the larger stores have some excellent bakeries. Why make an extra trip to a bake shop on Sunday to get a Vienna stick when you can get one in IGA and do your shopping at the same time?

Do you have any opinion about that? Do you feel there would be a financial shakedown on some of the small stores were the larger ones allowed to open?

Mr. McKichan: I suspect that might well be the last straw, so to speak, in some cases. It would have that effect. Whether that would be widespread or universal, I really do not know.

Mr. Philip: Some of the bakeries inform me that as much as 60 per cent of their volume takes place on Sunday and if Food City were to remain open with its bakery, essentially 50 per cent of their business might disappear. Is that an overstatement?

Mr. McKichan: That is probably an overstatement in the sense that presumably people patronize their stores not only because they are open on Sundays but also because they value the quality and nature of the product the stores sell. Sunday is probably a day when people tend to buy baked goods. I would be surprised if there were not some negative effect.

Mr. Chairman: Are there any other questions before we adjourn?

Mr. Philip: I have a research question.

Mr. Chairman: Perhaps you can do that very briefly. By way of wrapup question, may I ask about your reference to New Zealand and the Saturday morning shopping situation there? Were you suggesting this committee should do some research in New Zealand and attend there, in as much as it is summer in New Zealand?

Mr. McKichan: By way of interest, we recently appeared before the federal House of Commons standing committee on finance, trade and economic affairs. Allusion was made to a new tax regime which had recently been introduced in New Zealand. The chairman of that committee, your friend Mr. Blenkarn, made exactly the same suggestion.

Mr. Chairman: All politicians think alike, do they not? Thank you very much, gentlemen. It was very useful. I also thank you for your offer to provide us with the research you referred to during your presentation.

Mr. Philip, you have a matter to raise before we adjourn.

Mr. Philip: It is a matter of concern to some of my colleagues. I am not the only one who is puzzled. We have received a coding system on these file folders, and I cannot figure out what the codes mean. I wonder if the researcher or the clerk of the committee will tell us what it is all about. What are the tabs?

Clerk of the Committee: All you should do is look at the last number on that coding system. You do not have to be concerned about the rest. The rest is for our filing and the library filing. It is the last numbers. The first folder has exhibits 1 to 5 that are to be inserted. The second folder has exhibits 6 to 10.

Mr. Philip: On mine, I have 1 to 10.

Mr. Chairman: Perhaps we can adjourn the committee. Mr. Philip and the clerk can sort this out between themselves. All agreed?

Can I ask you gentlemen and ladies to be back promptly at two o'clock? I can tell you from experience that the first deputation, which has been allotted half an hour, will likely take considerably more than that, so I ask you to be here sharp at two and we will get going then.

Mr. Barlow: Are there just the two delegations this afternoon?

Mr. Chairman: Yes. The meeting is adjourned.

The committee recessed at 12:19 p.m.

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SELECT COMMITTEE ON RETAIL STORE HOURS

RETAIL STORE HOURS

TUESDAY, FEBRUARY 17, 1987

Afternoon Sitting





SELECT COMMITTEE ON RETAIL STORE HOURS

CHAIRMAN: O'Connor, T. P. (Oakville PC)  
VICE-CHAIRMAN: Guindon, L. B. (Cornwall PC)  
Barlow, W. W. (Cambridge PC)  
Bernier, L. (Kenora PC)  
Morin, G. E. (Carleton East L)  
Philip, E. T. (Etobicoke NDP)  
Reville, D. (Riverdale NDP)  
Sargent, E. C. (Grey-Bruce L)  
Shymko, Y. R. (High Park-Swansea PC)  
Smith, D. W. (Lambton L)  
Smith, E. J. (London South L)

Clerk: Mellor, L.

Clerk pro tem: Deller, D.

Staff:

Richmond, J., Research Officer, Legislative Research Service

Witnesses:

From the Committee of Ontario Bookstores:

Levitan, G. A., Legal Counsel; with Robins, Appleby, Kotler, Banks and Taub  
Borins, E., Proprietor, Edwards Books and Art

From the Christian Labour Association of Canada:

Vanderkloet, E., Executive Secretary  
Kuntz, H., Representative

LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON RETAIL STORE HOURS

Tuesday, February 17, 1987

The committee met at 2:07 p.m. in committee room 1.

RETAIL STORE HOURS  
(continued)

Mr. Chairman: Seeing members from all parties and a quorum present, we will begin this afternoon's proceedings.

Our first delegation is familiar, at least to myself and probably to the Conservative members of this select committee. The Committee of Ontario Bookstores is represented by Edward Borins and Jerry Levitan. Mr. Borins has presented us with a brief, indexed and apparently well researched. We thank you for that and we welcome you before our committee.

As you may be aware, our procedure is for you to either read through the brief or at least highlight it if you wish, following which we would like an opportunity to ask you some questions on it. With that, please proceed.

COMMITTEE OF ONTARIO BOOKSTORES

Mr. Levitan: Thank you, Mr. Chairman. I will speak very briefly with respect to what the brief contains and what the Committee of Ontario Bookstores has been through and then perhaps Mr. Borins can highlight parts of the brief.

What you have before you is essentially what was presented to the Solicitor General (Mr. Keyes) in the summer of 1986. There are two inserts at the front. One is a list of supporters of Sunday openings for book sellers, and Mr. Borins will go into detail with respect to that. The second insert is a recent letter sent to the Solicitor General from the Association of Canadian Publishers. Those two items are hot off the press.

There are four tabs in the book. The first tab indicates who is on the Committee of Ontario Bookstores. You have predominantly small book sellers and a couple of larger ones. Tab 2 are the issues that were presented to the Solicitor General when we met. I was there. At that time, the Supreme Court of Canada decision had not been rendered yet. Tab 3 is the brief that Mr. Borins presented to the Conservative task force approximately a year ago. Tab 4 is an excerpt from the task force recommendations.

I have some history with respect to the Sunday closing issue as a lawyer. I represented a chain of video stores when the legal case went through the Ontario Court of Appeal and ultimately to the Supreme Court of Canada. The decision of the Court of Appeal in Regina versus Videoflicks, from which people went to the Supreme Court of Canada, is a decision that should be of interest to the committee because in that decision one of the only groups that was successful was the video store.

The video store was successful for a couple of reasons. I believe one of them was because the court was of the view that a video store was a recreational, educational and amusement activity. That is something that is

already provided for in the act, as I am sure you are all aware. That is subsection 3(6) of the Retail Business Holidays Act.

During the Court of Appeal hearings, the five-member panel asked me whether I thought the arguments held for bookstores as well as for video stores. My response to that question from the court was that I believed it did, but unfortunately at that time, I was not representing the book sellers, I was representing only the video sellers.

1410

That is important, because what that demonstrates is the horrible situation in which book sellers in this province have been for the past few years. It is an anomaly that the book store cannot be open and the video store can be open.

Mr. Chairman, you know the lengths to which the book sellers have gone to lobby not only your party but the New Democratic Party and the government as well. I am sure you are aware of our efforts with respect to the private member's bill that was introduced in the Legislature. We are grateful for its introduction.

Mr. Sargent: What did that say?

Mr. Levitan: The private member's bill asked for an immediate exemption for bookstores and art galleries.

Mr. Sargent: When was that?

Mr. Levitan: It was last week, February 12.

Mr. Chairman: It was January 15, 1987. It was introduced by Mr. Ashe, Bill 188.

Mr. Levitan: Yes. Second reading was on February 12, I understand.

I was there and I heard statements from members on this committee and representatives of all three parties. The interesting point, if I was correct in what I heard, is that there was no one who was prepared to say that the bookstore ought not to be exempt. If I understood the government's position, it was that there probably is all-party support for the bookstore exemption, it is just a question of timing.

That is what I want to address to you all, this question of timing. To what lengths is a responsible citizen, a responsible group, expected to go to have a law changed? Is that citizen, that organization, expected to go out of business before the Legislature deals with the issue? We will be asking this committee to ask the government, on an interim basis, to introduce what the Solicitor General has called a friendly amendment to allow book sellers to carry on the business of selling books.

Having made those comments, I would like to ask Mr. Borins, of Edwards Books and Art, to speak to you with respect to the contents of the brief.

Mr. Borins: Books are the carriers of civilization. Without books, history is silent, literature dumb, science crippled, thought and speculation at a standstill. Without books, Darwin would have been merely an eccentric traveller, Marx a barroom debater and Freud a doctor whose fame might just



possibly have spread outside of Vienna. Our own national authors, Robertson Davies and Margaret Atwood--who came to our press conference on December 21 and very clearly expressed her feelings regarding the importance of bookstores being open on Sunday--would not be heard of, yet their books are being enjoyed by people in 24 different languages throughout the world.

I think you appreciate the importance of books and the difference between books and other items that might be sold on Sundays. I want to make it very clear that I am here as a book seller who wishes to satisfy families who enjoy browsing in bookstores much as a family or a person enjoys going to a movie on Sunday.

What would happen if movie houses were shut down on Sundays? After all, not too many years ago that was the case in Toronto. We have come to take cinemas being open on Sundays completely for granted. Just imagine if that were taken away, what would it do to the movie industry? What would it do to the people who are used to going to movies on Sunday? How would they react? Many bookstores have been open for years on Sunday, but with the recent decision of the Supreme Court of Canada those numbers are rapidly declining. The police visits are very frightening for book sellers. These bookstores might not be around much longer.

The book industry is besieged with problems. The tariff was brought in by the federal government in Ottawa. It hurt the industry severely. There is a transfer tax on books which is being considered now and increased postal rates. The book industry has enough problems without being forced to close its bookstores on Sunday.

The Minister of Citizenship and Culture (Ms. Munro), in response to a question in the House, I believe it was on January 12, replied that the book industry should enjoy exemptions because books are something precious. They are really the carriers of civilization. We feel that matters such as this can be exercised quickly, if necessary.

You started your hearings on the Sunday opening issue yesterday. We are already here presenting our brief today. I was out of town. Mr. Levitan is going out of town. You were very accommodating to allow us to speak today and I appreciate that. It is obviously clear that you do realize the importance of bookstores.

Other matters can be put through the Legislature quickly, it appears. For example, in December the Greenwood racetrack was allowed to open on Sundays. This was a very contentious issue. The time that the bill was introduced was in December right when the--

Mr. Reville: There was no bill on that.

Mr. Borins: Was it not a bill?

Mr. Reville: It was done by regulation.

Mr. Borins: It was a regulation, but in any case, the racetrack is now open on Sundays, is that correct?

Mr. Reville: There was no legislative activity whatsoever. Mrs. Bryden was trying to get a law to stop the Sunday racing.

Mr. Borins: But a regulation is--

Mr. Philip: But she is in favour of bookstores opening.

Ms. E. J. Smith: It does not have to go through the House.

Mr. Levitan: It does not go through the House. I think the point is well taken that the government, in its wisdom or lack of wisdom, passed a regulation to allow it to occur.

Mr. Reville: No. It was done by the racing commission. It had nothing to do with the government at all. You do not want to get on that track very long because it is not a helpful analogy I do not think.

Mr. Borins: I look at it as a layman. There is a lot of opposition in the Beaches area to the racetrack being open on Sunday and I feel offended as a bookseller because the racetrack is suddenly open and bookstores still have to close.

Ms. E. J. Smith: I think you would take good advice if you take his advice and try to stay with the theme you were on.

Mr. Borins: I will stay with the other theme.

Mr. Levitan: The point is very simply that legislation can be passed quickly if governments and Legislatures feel it is important. That is the point.

Mr. Chairman: The point I think should be made is that it had nothing to do with government. It was not a function or passage of any kind of legislative provision by a government. It was a corporation of the racetrack that made the decision.

Mr. Levitan: Yes, I appreciate it, Mr. Chairman.

Mr. Chairman: It was not really a clear analogy.

Mr. Levitan: What I am saying is to help steer us away. We thank you for your assistance.

Ms. E. J. Smith: Three parties have advised you.

Mr. Borins: I will get back to the brief which you have in front of you and some of the inserts. You can see from the list of people who support Sunday opening that it is virtually a nonissue. To my knowledge, I do not know of anyone or any politician who is opposed to bookstores being open on Sundays. You have the recommendations of the task force. We have bookstores being open on Sundays. You have the recommendations of the task force. The other day, I spoke to Les Kingdon, who represents the People for Sunday Association of Canada, and he has stated he is in favour of bookstores being allowed to open because it is a leisure family activity.

1420

You have the letter from the Association of Canadian Publishers which has been added to our brief. I do not want to take your time to read it but it certainly states the position very strongly and very clearly. Rather than go through the entire brief which was presented almost a year ago to you, Mr. Chairman, as the chairman of the task force, I thought I would just quickly reiterate what you said and sum up what I said in the brief, and then just

highlight a few of my points in the brief very succinctly. I might just make a few comments on the parts you excerpted.

What you say is, and I am quoting the brief I presented, "What we now have is a situation where bookstores are exempted from Sunday closing in certain parts of Toronto designated as tourist attraction areas; bookstores affiliated with government-funded institutions such as the Art Gallery of Ontario and the Royal Ontario Museum; bookstores which sell a certain percentage of magazines and newspapers...."

May I just pause here to say that this is where it is becoming very tricky. The police are going in and saying: "You are open selling magazines and newspapers. You better not sell too many books."

I continue "...bookstores located in specific tourist areas such as the CN Tower or hotels...." May I add here you also have a lot of drug stores which have substantial sections devoted to books now. There are the paperbacks and now there are children's books. They call them jobbers' racks. They are being introduced into these stores. This is competition for the bookstore and the bookstore cannot compete because it cannot be open on Sundays; drug stores can.

Then we get to the last category where there is no confusion at all. I call them "....quasi bookstores here which sell books and magazines bordering on pornography and classified as a 'place of amusement.'"

May I just pause here for a minute. We can sit here in the confines of this beautiful committee room and talk about these bookstores that are open without any problem because this is the one area where you really have no exceptions as to who should be open or who is not open, not that they sell enough magazines or enough books.

I invite anyone, ladies or gentlemen, to come with me this Sunday and walk along a few blocks of Yonge Street and go into these bookstores--they are called bookstores; it says "Books" right out in front--and see what it is really like. It is very easy to talk about in an academic way here. You probably would not want to be seen going into one of those places. But perhaps you should to see what it is really like. That is where I become very indignant and insulted, as the owner of what Toronto Life has called the best bookstores in Toronto, when I cannot open legitimately on a Sunday and these places can. What image do the politicians want this city to have?

There are just a very few other points in my brief that I think should be mentioned.

Mr. Sargent: What are you talking about? Is it classification?

Mr. Borins: What I am saying is that if Edwards Books were to apply for a licence as an adult book seller and have a striptease dancer in the back part of the bookstore, we could be open on Sundays. If you want to come with me this Sunday, you will see it very graphically.

As I say on page 7 of the brief, there is a clear discrimination against legitimate bookstores, as we say here, "in the form of government laws telling the people of Ontario that they may buy a skin magazine on Sunday, but not the collected works of William Shakespeare."



I refer you to page 10 of the brief with regard to the suggested remedy. There is some irony in all this because this brief was presented on March 21 to the Conservative task force, as I have mentioned, and then it was presented to the Deputy Solicitor General in the fall. Here I am going through this same routine again, which really makes me wonder, as a law-abiding citizen and the proprietor of legitimate bookstores that have contributed a significant amount to the culture of Toronto, what this whole process is about, how long it has to take and how many bookstores will have to go out of business.

Some of the members of the Committee of Ontario Bookstores are no longer members because they do not exist. Epic Bookstores Ltd. was a small chain. It has gone. Gail Wilson of the Book Cellar on Queen Street West is closing down. The owner of the Bakka Science Fiction Book Shoppe on Queen Street West has been so frightened by police visits that he is closing down on Sunday and might well give it all up and go back to teaching.

There was a book store called the Book Barn, which was in business for a number of years and closed about three or four years ago. I am sorry I do not have this with me, but there was a full-page article in the Toronto Star after that store went out of business. The owner attributed his going out of business to constant police harassment, constantly having to face charges in court and the legal bills that had just become too much for him.

This was a busy store. It was located on Front Street. I am sure some of you must have been in there, not on a Sunday, but at some other point. It was geared towards the family. They used to have clowns for the kids, and it was like an event going there. It was very busy. They attribute their reason for going out of business to the Sunday laws.

The suggested remedy that I have made almost a year ago. I refer to what the mayor has said, the two recommendations passed by city council in 1979 and 1985, to let bookstores open.

On page 11, I say, "I therefore submit that you take a cautious approach by recommending the exemption of bookstores...immediately, and see what the public reaction is by the time the broad issue of Sunday shopping is ready for debate."

We have already looked at the evolution of change on Sundays. What I did not say then and can say at this moment is that it all started in 1896. There was a lot of debate that went on for three years then concerning whether streetcars should run on Sundays. It seems foolish to us now. It is as foolish as movie houses having to close on Sundays. Bookstores are the same thing.

1430

There has been significant change over the last generation, but it occurred gradually. I think we can agree that most people in our province are not objecting to watching the Blue Jays play on Sunday, going to a movie or having wine with their meals in a restaurant. If there are people who object to legitimate bookstores being open on Sunday, they do not have to shop in them.

As far as staff is concerned, movie houses require far more staff than bookstores. Their staff is made up mainly of young people who want to work on Sundays. It is the same with bookstores. The workers of Edwards Books and Art and the Children's Book Store on Markham Street are represented by a union,

the Food and Service Workers of Canada. You will see on my list of supporters that although the union is opposed to open Sundays, it strongly recommends that bookstores be allowed to open on Sundays. You have a letter from the union in the brief that was presented to the Deputy Solicitor General.

I said at the time, almost a year ago, "I urge this task force to be the leaders in dealing with the problem of bookstores and take the bull by the horns immediately." You did that.

I go on to say, "It seems abundantly unjust to force the booksellers...to wait to have the possibility of their exemptions debated at Queen's Park for whatever reason when the Progressive Conservative government twice ignored city council's wishes, which represented the wishes of the people of Toronto to have bookstores...exempted."

Mr. Sargent: They were the bad guys.

Mr. Reville: They are gone now.

Mr. Borins: But what happened on Thursday? On Thursday, it was debated and it died in Orders and Notices.

Ms. E. J. Smith: No, it was referred to this committee.

Mr. Philip: It was carried over.

Mr. Chairman: It is carried over to the next session. It will be presented then.

Mr. Borins: That is wonderful. Mr. Levitan will have some suggestions for you on how to handle it.

Mr. Chairman: Can I ask you, Mr. Borins, how much longer you might be? We would like to reserve some time for asking you questions. Already the half hour allocated for your presentation is over.

Mr. Borins: I can conclude right now by saying I am glad it is now back in your hands. Mr. Levitan can just add a few words. I am very grateful.

Mr. Chairman: Perhaps Mr. Levitan could reserve his words for the windup or even for the questions, if we could work them in.

I want to assure the other group that was due at 2:30 p.m., which is here patiently waiting, that it will not be deprived of any of its time. You will have a full opportunity. It may be delayed just a bit while we ask some questions of this deputation, if you do not mind.

Mr. Barlow: Thank you for your presentation.

I did not serve on the Conservative task force, but I happen to have been there, Mr. Borins, when you made your presentation, which was on the last day or the second last day the committee sat. As you know and recognize, one of the recommendations from that task force was that bookstores be given special consideration. I can certainly understand your concern about coming back again and again. Had the task force submission been considered by the government as some place to jump off from, perhaps we could have avoided the extra step of your having to come back at this time. However, you are here and I have two or three questions for you.

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I noticed in tab 1, you cite the Committee of Ontario Bookstores. Ontario is bigger than the city of Toronto. I know a lot of people do not recognize that fact, but I notice all the committee members are from Toronto. Are you represented outside of Toronto?

Mr. Borins: Yes. Epic Bookstores did have stores in smaller areas outside of Toronto, but unfortunately they have gone out of business. There is another bookstore in London, Ontario, that has been very much in favour of being open on Sundays and actually was charged on Boxing Day for giving books away. The person thought this would be a way around it--

Mr. Barlow: Giving them away.

Mr. Borins: He did it to allow the public to enter.

We have Bill Ardell's name in our list of supporters. Mr. Ardell is the president of Coles Books, and he feels that in certain cities, such as Kingston, Coles would very much like to open on a Sunday.

Mr. Barlow: How many stores do you have?

Mr. Borins: Edwards has three.

Mr. Barlow: Under the laws on Sunday closing of retail stores, how many charges have you accumulated since the task force met last year?

Mr. Levitan: We have not counted them and I would not be able to tell you, but there have been an accumulation of them.

Mr. Barlow: A substantial number.

Mr. Borins: Of great concern is that we received 12 summonses yesterday at our store at Bloor and Sherbourne Streets and the dates of the alleged offences were all in October of this past year. This is how far behind they are. It is a sort of nightmare for me really, because it means sending a lawyer to represent us. We have complied with the decisions; we are no longer open. We have not been open since December 18 except in our Queen's Street, which is in Chinatown--

Mr. Barlow: Which is a tourist area.

Mr. Borins: --and therefore exempt. It is frustrating when we are still getting these summonses from October and it is now February.

Mr. Levitan: When I got into the act for the booksellers, the first thing we endeavoured to do was meet with representatives of the government, of the House, to say there is a crisis for booksellers, that some of them are going out of business because of the accumulation of charges and the police harassment. That is why we presented the brief to the Solicitor General (Mr. Keyes) and why we have been lobbying so long and hard in the context of its being a noncontroversial amendment.

As a lawyer, if you want my opinion, whatever that is worth, I think that bookstores are probably covered in the existing legislation. Ought the bookstores to go through the rigmarole again, up to the Supreme Court of Canada, to have it determined that they are like a video store? That is the point.



Mr. Barlow: One of the points is that the current law says, as I understand it, that bookstores are not exempt; they fall under the Retail Business Holidays Act. I guess that is not a reason for anybody to go out and break the law. The law may be wrong and it probably will be changed after we go through this process; we hope it will be. However, we are still going through the process. If a person does not agree with the seatbelt law, that does not give him any reason for going around without a seatbelt on.

Mr. Levitan: To respond to that, Mr. Barlow, that argument held true for video stores and they accumulated charges. The Court of Appeal determined that video stores are exempt because of subsection 3(6). That was one of the reasons the court of Appeal actually withheld its determination on that. As Ms. Bryden asked in the House the other day, essentially, if I understood her submission, what is the fuss about the bookstores? If you look at the legislation as it stands right now, they are probably covered. It is a matter of finetuning the wording in the legislation.

I will read subsection 3(6)--

Mr. Chairman: I am going to interject here, if I may, and make a request of members. We have five or six more members who wish to ask questions of this deputation. We are already nine to 10 minutes over the time. Could I ask everybody to be very brief with his questions and, if you do not mind, gentlemen, to be brief with your answers.

I think we all agree totally with your point of view and your submission to us today. In fact, the Legislature of Ontario has expressed its wishes, by way of second reading debate, and overwhelmingly has passed Bill 188, which would give you exactly what you want. Therefore, I do not want to spend too much time with all of us agreeing with each other on this point. We have other deputations that want to get into more controversial issues. You have made your point and you have got what you want. I do not want to cut people off; I just ask you to keep that in mind when asking your questions.

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Mr. Barlow: You will be pleased to know, Mr. Chairman, I am finished.

Mr. Chairman: Thank you.

Mr. Philip: Maybe it is my 12 years in opposition, but I find it harder to ask questions of somebody I agree with. Therefore, I will not have that many questions. As I said in the House, I find it blatantly absurd that I can buy a Penthouse magazine on Sunday, but I cannot buy a Margaret Atwood book or even a Bible unless I go to a specialized store for Bibles or buy it through a church or something like that.

You mentioned that you are going out of business because of the police laying the charges and the fines, etc. I wonder whether you can tell us about volume. When you were open on Sundays, what percentage of your volume was done on Sundays compared to other days?

Mr. Borins: Sunday is often the best day of the week, even better than Saturday. I compare it to traffic at a movie house where you see that Saturdays and Sundays are very close in volume. It depends on the particular day, but about 30 to 40 per cent of all the business is done on Sunday. It is an enormous day, especially when you take into account the other holidays such as December 26, Boxing Day. January 1, New Year's Day, is a very important day.

Mr. Philip: From my own experience, it seems to me that the books I buy by browsing or by following my recreation of visiting a bookstore--it is amazing how many books I buy at an airport--form a fairly large part of the number of books I have in my library compared to books for which I have said that I had better go to SCM or to some other bookstore on a Saturday or a Friday evening to order it and to pick it up.

Is part of the reason for the request for Sunday the recreation in it and the amount of browsing or what do you call it? Is it an intuitive "Gosh, I would like that although I did not come here to buy it"?

Mr. Borins: Retailers call it impulse buying. Exactly.

It has been graphically proven to me, with the Queen Street store being open and the two others closed on Sunday, that we do not pick up any extra business at all. People walk by the Yonge and Eglinton store and if we are open, fine, but they are not going to go down to Queen Street. It is a nice day, they are out for a walk, and they will browse and spend some time in a bookstore; so if you are closed, you have missed it. It is greatly based on impulse buying. It is a matter of being there, being open and accommodating the public.

Mr. Philip: What effect does the laying of a charge on the store have on the customers when the police walk in?

Mr. Borins: The customers become absolutely indignant. They are very upset. We have had customers make some rather nasty comments to police officers and even call them "Nazis" because the police always say they are just following orders, and the customers say, "So did the Nazis." That is extreme, but there have been some very unpleasant situations. It is not very good for relations between the Metropolitan Toronto Police and the public.

Mr. Philip: My impression is that there is a lot of outcry against Sunday opening in general, but I have not had one person complaining about a bookstore being open. Even this morning when I was at the mayor of Etobicoke's prayer breakfast, I asked several of the ministers there and they said they had no objection to the bookstores being open.

Mr. Borins: That is exactly what I have said. Many people at our Bloor and Sherbourne store go to the church virtually next door and then go to our Edwards store; it is a part of their Sunday routine. A lot of the clergy would come in.

Mr. Philip: It is amazing it has taken so long to get this inequity taken out of the act.

Mr. Borins: That is why I am feeling somewhat frustrated. You are saying everybody agrees. Perhaps I am out of order in asking this, Mr. Chairman, but if everybody agrees and the bill has passed second reading, how much longer do we have to wait?

Mr. Chairman: Thank you. Perhaps that is the question you should direct to the government, but that is for another time.

Ms. E. J. Smith: I will not go over what has been said. We all agree. It has been said in the Legislature and so let us start with that, that we agree in principle with what you are saying.

In your presentation, I think you are often jumping quickly from the legislation to the courts, which have to interpret the legislation and where the legislation can be challenged. We all recognize that because of the evolution of different ways of retailing and what is happening, the law is no longer a good law. The courts have to interpret it as it stands. You can call it police harassment, but the police are doing what the law says. We are here to try to change it.

We had some very good presentations this morning. Having talked to lawyers, and you have a lawyer with you as part of your delegation, they were saying they think the very tools we are using to try to discriminate in who should and should not be open are all going to fall in the courts under the Ontario Human Rights Code. In other words, they were suggesting the tourist-designated areas will not stand up in court. The size of stores is being made ridiculous, with people putting up barriers and so on.

The two things they seemed to relate to as potential for control, and I am asking your opinion in this area, were, first, possible legislation based on products so that whatever the legislation was, you could say anybody can sell books, gasoline and such and such. In that way, you might not have Eaton's saying we allow you to open but we do not let Eaton's open and since they sell books, we are discriminating.

We are having trouble trying to write legislation that will stand up in the courts, because if we rush in and write legislation that drags you into the courts fighting for it, we only put our responsibility off on to you.

Mr. Levitan: Could I respond as someone with some experience here? The section 15 of the charter argument--that is the unequal treatment section that people are citing now in terms of this legislation and other legislation--to a large extent is a red herring for the purposes of your committee. The reason I say that is the saving provision under the charter for all of the rights provisions, including section 15, is section 1, which says that you can infringe rights when you demonstrate it is reasonable and justified in a free and democratic society.

When the Supreme Court of Canada rendered its decision in the Edwards, Nortown and all the other Sunday cases, it said there was a fundamental discrimination of freedom of religion but it was justified in a free and democratic society. My view is that if challenges come up again under the Retail Business Holidays Act under section 15, the court will say, "We have already determined this legislation and we have already found that you can discriminate or you can do certain things when it is justified." Looking at it as objectively as I can, it would seem to me that if you can discriminate against religious minorities in this country with the Retail Business Holidays Act, you can certainly discriminate among businesses.

There are other problems with the section 15 argument. I will be very brief. Section 15 says "every individual." That is the language used. The other sections deal with "every person." There is a legal distinction. The argument still has to be made whether section 15, the equality section, would cover businesses, such as Loblaws.

For this committee's purposes, my view is that you ought not to get into the concern about section 15, unequal treatment and all of that. What I think you should do is look at the present legislation, look at the inequities that exist, the de facto, the real inequities, and clean it up.



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Ms. E. J. Smith: For instance, we have a great blurring now when drug stores could put up a case like you have put up--maybe less dramatic, but still a case--and then we got into the situation where drug stores are selling everything from pots and pans to groceries. One of the things we have to look at is how we avoid everything from becoming a bookstore. You have pointed it out yourself that the problem with some bookstores--

Mr. Levitan: It is very easy; it is done already in the legislation. You use words such as "principal business." For example, in section 3, when it talks about the newspaper/periodical stores, the principal business of the sale of the goods is whatever. For example, if you say for the bookstore that the principal business is that of the sale of books, Eaton's cannot open up and have a teeny-weeny, little bookstall and say, "Because of that, we are allowed to be open as a bookstore." It is just a matter of language: "principal," "predominant" or "substantial"--whichever type of word you want. I think that is fairly easy thing to do.

Ms. E. J. Smith: I appreciate the answers because I think they are a little different from the presentation this morning and therefore are useful to us.

Mr. Reville: Mr. Levitan, have you drafted the section you would like to see in the Retail Business Holidays Act?

Mr. Levitan: The section I would like to see is identical to the private member's bill that was introduced.

Mr. Reville: For those of us who do not have that before us, what does it say?

Mr. Levitan: It was Bill 188, I believe. It includes art galleries, which does not offend my conscience.

Mr. Reville: What package is it with, Jerry?

Mr. Richmond: The material yesterday that came around with the RBH Act on the cover. Bill 188 is just behind that.

Mr. Reville: What does it look like?

Mr. Barlow: What is on the front?

Mr. Richmond: The RBH Act. It is right behind that, George Ashe's bill.

Mr. Levitan: If I can be of assistance, Mr. Reville, I think what that--

Mr. Reville: I see it now; subsection 3(3).

Mr. Levitan: I think the drafters of that ought to be applauded because what I think it does is just adds to the existing exemptions there, namely, gasoline, nursery stock, flowers, fresh fruit and vegetables; you just tag on bookstores.

Mr. Reville: Right, and it does not relate at all to number of employees or size of store.

Mr. Levitan: That is correct. To a very large extent, that is irrelevant for the bookstores because the union supports them, which is probably unprecedented in this province.

Mr. Reville: That is the only substantive question I had. I am just modestly curious. Both you and Mr. Borins have wondered aloud what the process is about and how long it takes to get a law changed. Are those rhetorical sallies or are you really confused about this?

Mr. Chairman: I wonder whether this is the place to provide an educational lesson on how to get legislation passed.

Mr. Reville: It did occupy quite a large portion of the presentation. I am just surprised to think that two such worldly gentleman as these do not realize that unless government is going to introduce changes, they are not going to happen.

Mr. Levitan: The comments were extremely sincere and come out of a good deal of frustration. We have had assurances from cabinet members of the present government for a long time that the legislation would be amended and that they are in favour of the book sellers. When the private member's bill was introduced, we had a comment from the Attorney General (Mr. Scott) to the effect that we were wasting our time talking to the opposition parties. I can assure you those sentiments are not empty rhetoric; they come from a great deal of frustration.

Mr. Reville: So you were really directing those remarks to members of the government on this committee?

Mr. Levitan: Absolutely.

Mr. Reville: Fair enough. Thank you.

Ms. E. J. Smith: What about the government that did not change it all the years before we got here?

Mr. Levitan: We will criticize them too.

Ms. E. J. Smith: Okay. I appreciate that.

Mr. Chairman: Order, please.

Mr. Shymko: First, I want to congratulate you on your excellent submission and congratulate the chairman of the opposition task force, who deemed it wise to make a recommendation addressing this issue.

You have an excellent subtopic on page 4, "Government Discrimination Against the Thinking Public." I like that. I think it is an insult to the thinking public when you have, as Mr. Philip pointed out, access to Playboy, Penthouse and other things, and you cannot read Shakespeare or the Bible--

Mr. Borins: That is nothing. You should come with me on a Sunday and see what you have access to.

Mr. Shymko: I just want to ask the following. Do you not perceive this in terms of strengthening your argument? That amendment inevitably has to be introduced obviously through a government bill. A private bill, such as George Ashe's, is fine, but it does not have any hope of ever becoming law, as

most private bills do not. It has to be a government amendment. I am sure this committee will give serious consideration to having that immediately implemented, as soon as our report is submitted. I will tell you, I am one who will certainly be making a strong case, and I am sure it will be shared by all our committee members.

But why did you not stress the educational aspect of this? For example, we have a serious problem, which has been mentioned time and time again by ministers, in terms of the high level of functional illiteracy in this province. There is the problem raised by educators that kids do not read any books. There is the whole problem of the publishing industry and the crisis it has gone through. One can list so many great arguments in your support that it is an insult to the intelligent public that you need to have a stripteaser to open up a bookstore. If you add some of these educational arguments, I think you will have no objection from the electorate of this province.

My question is this. You have formed this committee of "Ontario" bookstores. I notice from the list of 16 bookstores in your submission, they are all from Metro Toronto. Over 50 per cent, nine out of the 16, are in the immediate vicinity, from 239 Queen Street West to 355 Queen Street West, almost a core in the downtown of the city of Toronto. Does your committee reflect the views of other municipalities and bookstores in Windsor, Sudbury and Thunder Bay? Why did you not enlarge your committee beyond the downtown core of the city and a few stores within Metro?

Mr. Borins: Let me answer the number one question first, which was sort of rhetorical. We do stress the educational--

Mr. Shymko: I must have missed it.

Mr. Borins: It is mentioned in the letter of February 12 written by Malcolm Lester on behalf of the Ontario Publishers Group. That is a very strong letter; it starts, "Reading is the lifeblood of Canadian identity," and it goes on for a paragraph. That is extremely important, and that answers that part of the question.

The second part--I have to be very candid here. I got into this whole thing through legal advice, which I seriously have to question now. I am just sorry I did not meet Mr. Levitan earlier.

Mr. Shymko: That is not your lawyer here?

Mr. Borins: No. We met in Ottawa last March when we were listening to the hearing before the Supreme Court of Canada. The money that was literally thrown out is very upsetting, but perhaps equally upsetting is the way in which we were advised. I do not wish to insult lawyers, but sometimes their egos get in the way, and they examine an issue from a very academic point of view. I am sorry; I am going to go more quickly, Mr. Chairman.

Mr. Chairman: We are almost half an hour over the limit now. I ask you to speed it up if you can, please.

Mr. Borins: Why did we not? The other book sellers and I spent all the money this way, and there was no money left to go communicating with other book sellers in Windsor, North Bay or wherever. Also, the energy runs out.

Mr. Levitan: Can I address it very quickly? There are limitations to which people can do this sort of thing. Mr. Borins, who has really spearheaded



this whole movement, has spent countless hours and days organizing the situation. He has been in touch with people around the province, and there are book sellers who support him; but when we prepared that list of the committee, it was at a time when we met with the Solicitor General. I assure you that the view is widespread throughout the province. It just reflects a limited amount of resources, and that is really the answer.

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Mr. Chairman: Thank you, gentlemen. That answers that question. Is that fine, Mr. Shymko?

Mr. Shymko: I have two final questions.

Mr. Chairman: Hold on. We are half an hour over the allotted time for this deputation, and I have several more speakers.

Mr. Shymko: Can I ask one question? You mentioned hobby shops in your request. Would you add that as well, along with art galleries? You have the leisure aspect--

Ms. E. J. Smith: I would add hobby shops. It is a good point.

Mr. Shymko: You can expand it. For example, would you retain a percentage criterion of newspapers and magazines versus books--I am intrigued to know what the percentage is--or would you eliminate that?

Mr. Borins: You would have to eliminate that. The magazines and newspapers present real problems.

Mr. Shymko: What is the percentage? Are the police coming to count all the books in your store?

Mr. Borins: It is the principal business.

Mr. Shymko: In other words, over 50 per cent should be books and the rest periodicals?

Mr. Borins: Yes. If you go into some of the bookstores that are open because they supposedly sell newspapers and magazines as their principal business, it is totally arbitrary.

Mr. Shymko: In other words, the way Mr. Ashe has it, "books, newspapers, periodicals," is the way you should do it rather than to say "bookstores"?

Mr. Levitan: Yes, exactly.

Mr. Chairman: Thank you, Mr. Shymko. Mr. Sargent.

Mr. Sargent: I will pass, but I share your concerns.

Mr. Chairman: Thank you. That was the last speaker on the list. Gentlemen, thank you very much again for a comprehensive brief, as it was last year and as you have always presented to us. Thank you for your attendance here. We appreciate it very much.

Mr. Borins: Thank you for hearing us today. I am very grateful to you and the committee.

Mr. Levitan: Before we leave, is there a printed schedule as to the hearings around the province?

Mr. Chairman: Yes, there is. Perhaps you can contact our clerk to determine where we will be and what time.

Our next deputation is the Christian Labour Association of Canada, which has been waiting patiently. It is represented by Mr. Vanderkloet, who is the executive secretary. I see he has several others in tow.

May I ask members of the press to conduct their interviews outside the room, if possible?

Mr. Vanderkloet, perhaps you can introduce the other members of your deputation. As you have observed, you then may wish to proceed into your brief followed by questions from us. Rest assured you have whatever time you need to present fully your views to us.

#### CHRISTIAN LABOUR ASSOCIATION OF CANADA

Mr. Vanderkloet: We will certainly not need an hour. My colleagues are Harry Antonides, our research director, and Hank Kuntz, one of our representatives; they are both from our Toronto office.

I had our brief distributed to you. If you do not mind, I will make one introductory remark. We learned of the hearings only perchance on Sunday afternoon, when I saw a letter from Mr. Philip to one of our constituent members. That sort of alerted me to it; so we had to prepare this in an awful hurry. If you find some grammatical impurities in this particular submission, I hope you will excuse us.

Mr. Chairman: We understand the short period of time you have had, and we appreciate your coming before us notwithstanding that. I might just say, because some people from Toronto were unable to meet the very short deadline, we may be scheduling further Toronto hearings several weeks or months from now, if that can be accommodated. If you know of others who were not able to put things together as quickly as you were, you might pass that on to them.

Mr. Vanderkloet: I appreciate that.

Mr. Chairman: I am sorry to interrupt. Please proceed.

Mr. Vanderkloet: There is one glaring mistake right away in the first words of the submission. It says, "Dear Sir" in the singular and "Mesdames" in the plural. I can assure you that is not the result of excessive feminist zeal on our part, with the emphasis on "excessive." It is purely a typing error. I would like to read this, and it will not take very long.

We wish to express our appreciation for the opportunity to appear before your committee and to make our views known on the issue of extended commercial activity on Sunday.

We share the deep concern of many trade unions, store owners, business associations and other groups of people as well as countless individuals who are adamantly opposed to the commercialization of our common day of rest. Apart from any religious consideration, our Sunday as a common day of rest is a precious heritage that has thus far enabled parents and children to be at

home this one day of the week. The value of the one day of rest in which, with relatively few exceptions, people are not required to work or to go to school is inestimable and should not be jeopardized by some business establishments whose motivations are purely financial and commercial.

Unrestricted Sunday shopping will force countless employees working in stores and shops to surrender their free Sunday to commercial interests. We should not be fooled by the argument that the problem can be largely eliminated by granting exemptions to religious objectors. First, such objectors, in order to be exempted would have to launch cumbersome appeal procedures and satisfy a tribunal such as the Ontario Labour Relations Board of the authenticity of their religious objections. Second, even if they were to succeed they would become recipients of special privileges, thereby loading greater inconveniences on fellow workers.

More important, however, uncurbed Sunday opening of stores would not only create hardships for those who have religious or conscientious objections to working on Sundays; virtually all employees would prefer to have this particular day off and their preferences, we believe, should prevail.

In addition, there will be many store owners in shopping malls who will be compelled to open their establishments simply because the mall management has so decided. Other store owners will have to open on Sunday under the pressure of competition of rival stores.

In this connection, we wish to point out that the idea of letting municipalities decide on the question is no solution at all. Incidentally, we see that in Alberta at the moment--where we have a large number of contracts and I think it is bedlam there--if one municipality stays open, neighbouring ones will have to do the same to protect their merchants from a drain-off of business to the municipality that stays open. This effect is bound to spread across the province with the end result that Sunday will not be protected anywhere as a special day for families and friends to be together.

Obviously, more days of shopping opportunities will not increase the amount of money people have available for spending. Equally obvious should be the folly of incorporating into the prices of our consumer goods the cost of seven days' overhead for six days' worth of merchandise.

Furthermore, as we all know, wages of store employees are already abysmally low. Increasing overhead costs cannot help but exert further downward pressure on the incomes of the largely nonunion and mostly unorganizable employees or employees who are very difficult to organize.

We fully agree that the government has no business prescribing religious beliefs or legislating lifestyles. But it certainly can continue a centuries-old Christian custom of maintaining a weekly common day of rest and protecting it from all unnecessary commercial and industrial activity while accommodating minority groups who celebrate their sabbath in a different way.

In this connection we believe that the words of Mr. Justice Belzil of the Alberta Court of Appeal merit quoting. In a dissenting judgement about two years ago, concerning the old Lord's Day Act, Mr. Justice Belzil stated it was realistic to recognize that the Canadian nation is part of western or European civilization moulded in and impressed with Christian values and traditions which remain a strong constituent element in the basic fabric of our society. He said:



"I do not believe that the political sponsors of the charter intended to confer upon the courts the task of stripping away all the vestiges of these values and traditions, and the courts should be most loath to assume that role. With the Lord's Day Act eliminated"--of course, it has been eliminated--"will not all reference in the statutes to Christmas, Easter, Thanksgiving be next? What of the use of the Gregorian calendar? Such interpretation would make of the charter an instrument for the repression of the majority at the instance of every dissident and result in an amorphous, rootless and godless nation contrary to the recognition of the supremacy of God declared in the preamble. The 'living tree' will wither if planted in sterilized soil....

"As much as it may be desirable and fair that all religious preferences be treated equally, there are times when that is not possible. The Lord's Day Act is an example. Civil authority, while bowing to pressure from religious groups, recognized the moral value of a day of rest. That it should have selected the day of the week regarded as holy by the great majority of Canadians is not inconsistent with the basic principle of democracy. That is political reality. Majority rule is restricted by the charter only when it abridges or abrogates the guaranteed rights of others."

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We should be happy that the days are behind us in which religious majorities or minorities could force upon the entire nation their conception of God's will pertaining to the Sunday. Today, however, we must resist and reject the attempts of vested interests whose religious obsession with financial returns and economic advantages eclipses every other consideration.

As to the complaints of Paul Magder of Toronto--and of course there are many others--that his store must close while others in nearby tourist areas are allowed to remain open, we would like to point to the analogous example of zoning bylaws. These bylaws divide municipalities and neighbourhoods into residential and industrial-commercial areas. In our opinion it is quite legitimate for municipal governments to designate certain areas to be free from commercial and/or industrial activity, and we do not believe such designation constitutes discrimination.

We believe the same applies to the designation of certain areas as tourist attractions. An orderly society requires certain rules to which we all must adhere. This is not to suggest that the current practice of declaring certain areas as tourist attractions is beyond criticism. But like disputes over zoning bylaws, such matters should be brought to the attention of the local authorities concerned and should never lead to violation of the existing laws.

Finally, our urgent advice is to keep the Sunday free of all unnecessary commercial activity for the benefit of the vast majority of the population.

Mr. Chairman: Thank you very much, especially for having done that very comprehensive brief in a very short period of time.

Mr. Shymko: At the very beginning of your brief, you indicated that some business establishments are motivated purely by financial-commercial interests and reasons. In the case of bookstores, for example, would you see that the same?

Mr. Vanderkloet: I followed the discussion earlier this afternoon with interest. To be very truthful about it, we have not studied that

particular aspect of it. I am not prepared to say yes or no to the arguments of our friend prior to us. I would like to point out, though, that he makes an analogy where he equates bookstores with movie theatres and I think that analogy is faulty, at least in this respect: you can go to a bookstore on Saturday or Friday or any day of the week, pick up your book and read it at home on Sunday. You cannot pick up the movie theatre and move it to your home on Sunday. In other words, there is a basic difference there.

As I said, we are not hung up on certain exemptions. We fully recognize that the common day of rest--at the moment it is Sunday--is not or at least should not be devised to force people to worship or engage in religious activity. We see it as a leisure day. We understand you can run into certain problems and certain conflicts about what is leisure activity and what is not. At this stage, I would certainly not be prepared to put up a vigorous argument against the opening of bookstores--I do not think that is right--or movie theatres for that matter. We are thinking of purely commercial activities, such as supermarkets, The Bay, Simpsons, Sears, and so on.

Mr. Shynko: It is the unrestricted Sunday shopping that you are opposed to but you are open to art galleries and certain aspects, including religious bookstores, for example?

Mr. Vanderkloet: If one person wants to go to church on Sunday and the other wants to go to the art gallery or to the theatre, to me that is the same as far as governmental powers are concerned. I do not think we should discriminate there at all.

Mr. D. W. Smith: Your big concern here today is not really with Bill 188, which will allow bookstores that sell newspapers and periodicals to open?

Mr. Vanderkloet: Not at this stage. No. I must admit I am not familiar with Bill 188, but I gleaned enough from the discussion earlier about what it is.

Mr. D. W. Smith: Do you believe that if the stores were allowed to be open on Sunday, some of those same stores would take another day as a holiday? Do you see that happening or have you ever investigated it any further than that? I think everybody wants a day of rest, but they do not particularly want Sunday. Do you feel that possibility?

Mr. Vanderkloet: I think the fact that, for instance, the whole educational system is geared to five days of school--you do not see kids going to school on Sunday--is already a powerful argument not to make people have to work on Sunday so they cannot even be with their families. Of course, there are exceptions. There are the Seventh Day Adventists and the Jewish community, who have their stores open on Saturday. I think there is absolutely nothing wrong with that. Those should be exceptions.

Mr. D. W. Smith: If you are going to open on Sunday, you are going to change the whole structure of what we now know. Stores will have to change everything.

Mr. Vanderkloet: I certainly see that. I cannot foresee municipal governments or the Legislative Assembly being open on Sunday. I have never heard that argument made yet and I would object to that. Why then should a store have the option to choose Wednesday or Sunday or whatever other day? The words "common day of rest" is rather important and it is a common day of rest we are after.



Mr. Philip: I have some concern about page 5, in which you say, "In our opinion, it is quite legitimate for municipal governments to designate certain areas to be free from commercial and/or industrial activity." If you accept that, then you also accept the opposite. The argument has been made that if you allow municipalities to do this, experience has shown in places like British Columbia that you simply end up with a completely open Sunday.

I am wondering if you have thought that through. Perhaps provincial regulation would make more sense than allowing municipalities, which will be faced with commercial pressures, to open up. Once one municipality opens up, the other municipalities simply have to open up because they lose the business.

Mr. Vanderkloet: You mean in terms of designating tourist areas?

Mr. Philip: Yes, that is one problem.

You are in Etobicoke. Suppose Mississauga decided that all of Mississauga was a tourist area. The council in Etobicoke might not want open Sundays, but as its stores start to feel the economic pinch, it may be forced into passing bylaws it does not even agree with simply because of the pressures. I am wondering if regulating things like this municipally makes very much sense since the economic flow does not stop at municipal borders.

Mr. Vanderkloet: We make the argument on page 2 that we should not let municipalities decide. That is exactly the problem at the moment in Alberta where the power is entirely delegated to the municipal government and the provincial government has abdicated its responsibility entirely in this area. You figure it out. There is total bedlam. Incidentally, it means the abrogation of the common day of rest altogether.

The analogy we draw in terms of tourist areas vis-à-vis zoning bylaws is that if Mr. Magder or anybody else happens to be just outside a tourist area, he should not complain so quickly about discrimination, because in every municipality we already have a division in residential versus commercial. I have never heard anybody argue that is an unfair setup. Incidentally, many American cities do not make that distinction. When you go to Detroit, you see all sorts of commercial enterprises smack in the middle of residential neighbourhoods. I think it is a terrible thing.

I tend to agree with you that when it comes to designating tourist areas, that should not be left entirely to the municipality. The provincial government should have a big say in that.

Mr. Reville: In terms of your analogy, surely the whole issue in contention when people are discussing zoning is that zoning does discriminate against particular kinds of uses. I am not sure that your analogy is particularly apt in this case. It is a question of different kinds of land use. Given a particular kind of land use, you expect a particular kind of activity. Those who want the zoning to be something different always allege that their kind of activity is totally appropriate for that site. I am interested in your comments on that. The tourist designation is not a land-use zoning designation.

1520

Mr. Kuntz: The point we want to make is that somebody might feel discriminated against, but choices have to be made. Sometimes it is unpleasant. You cannot please everybody. No government can, although it probably wants to try.



Mr. Philip: I am sure our two former municipal politicians have heard all that.

Mr. Reville: We obviously disagree with one another.

Mr. Philip: Thank you very much for an interesting brief.

Mr. Barlow: My question was answered by the first question. Mr. Shymko approached it from a different angle than I was going to.

Mr. Guindon: How many members do you have in the Christian Labour Association of Canada?

Mr. Vanderkloet: We have just under 8,000 members, of which 5,000 are in Ontario. I should add that we are not sitting here particularly on behalf of a group of people directly involved in the Sunday shopping issue. Almost 3,000 of our members in Ontario are in nursing homes. That is a typical example of people who must of necessity work on Sunday. That is not the argument. Many others are in the construction industry where Sunday work is fairly rare. We have about 300 to 350 members who work in wholesale and retail, particularly wholesale, distribution of food. They will be very much affected by a wholesale opening of stores.

Mr. Guindon: I am a little bit puzzled. I am going to ask the question in a different way. With regard to Sunday shopping, do you think it is the corporations that want to open on Sundays or is it the pressure from the public that is causing the situation in Ontario at the present time?

Mr. Vanderkloet: I am fairly convinced that the general opinion of the public is, "Do not go in this direction."

Last year we appeared before the Conservative task force with a similar brief. The comment was made at that time that although you had expected a much more pro response, the general reaction was very much against it.

Mr. Chairman: That is not quite correct. What I had said prior to starting the public hearings was that my gut feeling was that perhaps the majority of the people in the province would want wider-open Sundays. We sure found out in a hurry through our public hearings that was not the case. The large majority does not want it.

Mr. Vanderkloet: We are not in the poll business.

I responded to a CBC invitation last November to participate in an audience participation program on television in Ottawa where Mr. Magder and Mr. Kingdon appeared. It was in a big auditorium and I think there were about 4,000 people. I was amazed to find I dare say at least 90 per cent if not 95 per cent of the audience was vehemently opposed to going in the direction of further Sunday shopping. Various reports I have read indicate to me this is not a public demand. I would say it is particularly pressure by corporations.

Mr. Kuntz: May I just add an interesting point here? We are a relatively small independent union, obviously, and we have some disagreements. Other unions do not look so kindly on us. However, here is one point where we agree. I think that is a good thing. It shows that consensus and agreement can be found on certain details. It is interesting to note that virtually all unions are strongly opposed, simply because they look on it as protection of a day of rest. In that sense, we feel good about that. Although there might be many differences, there is still consensus possible.

Certainly, from the point of view of the interest of the workers--that is what we want to stress here--there are a lot of arguments to be made for keeping it as common a day of rest as possible. That is what we want to plead.

Mr. Guindon: In a lot of industrial towns, a lot of the work force works seven days a week. What is your answer to that?

Mr. Kuntz: That is true. I guess the argument there is that it is economics; it is efficiency. There too we would say that efficiency and economics should not be the end-all; consideration for the family should be paramount and for maintaining a day of rest as much as possible, although we are not saying you could shut down everything. There is continuous operation, but where, with some co-operation between union and management too, it can be avoided as much as possible, we feel it should be. I think it is a matter of having the law at least restrain it as much as possible. I guess that is what we are pleading for.

Mr. Guindon: I congratulate you on your brief. It is very well done.

Ms. E. J. Smith: My points have been covered. Although Mr. Ramsay is not here, I will discuss it with him, as I indicated to him. I agree that your point was very well made in the comparison of designating tourist areas versus zoning, because city councils do indeed radically change the value of a piece of property when they zone it, so it may well change the nature and value of a business if you zone it as a tourist attraction. Generally, I gather you do support the fact that although it needs to be better done, the designation "tourist area" has some validity?

Mr. Kuntz: I think so. Yes.

Mr. Vanderkloet: Yes.

Mr. Sargent: I just want to congratulate you on your brief.

Mr. Chairman: Ms. Smith, in your comment earlier you meant Mr. Reville.

Ms. E. J. Smith: What did I say?

Mr. Chairman: You said "Mr. Ramsay."

Ms. E. J. Smith: Oh, Reville; pardon me. We have two Davids, David Reville and David Ramsay--and David Smith, as well.

Mr. Chairman: Does that conclude your remarks, Mr. Sargent?

Mr. Sargent: Thank you.

Mr. Chairman: Any other questions from any members?

Mr. Sargent: I move we adjourn.

Mr. Chairman: Thank you, gentlemen, for giving us again this year a very comprehensive brief. It is very useful to us.

May I ask committee members to remain a few brief minutes for some administrative work? Has everyone signed the note indicating his intention with regard to the bus on Thursday going to Barrie?

Ms. E. J. Smith: Chris Ward was not here, but he told me he is taking his own car.

Mr. Chairman: Okay. With regard to the bus on Monday for the tour next week, has everybody completed his intention on the note we sent around in that regard? Okay.

Mr. D. W. Smith: Is there a possibility the bus may not be going?

Mr. Chairman: No. There are enough members who wish bus travel in both cases to warrant a bus.

Ms. E. J. Smith: Is there any extra room on the bus? I have a legislative intern who is interested in going.

Mr. Chairman: Looking at the members involved, there are only half a dozen or eight. Do we know the size of the bus?

Clerk of the Committee: It is a regular Voyageur bus; so there should be room.

Mr. Chairman: In that case, there is lots of room, not for unnecessary hangers-on but for legislative assistants, certainly.

Ms. E. J. Smith: She is nonparty, in a sense.

Mr. Chairman: I think that would be acceptable. If members wish to bring assistants in that regard--somebody who would be of some use on the trip--please use discretion as necessary. Of course, their other expenses would not be covered; you understand that.

Mr. Philip: You will want to go to Etobicoke on Wednesday, will you not? That is really the biggy.

Mr. Chairman: That is right. We are going to Etobicoke.

There is one other matter Mr. Richmond wished to bring up.

Mr. Richmond: Just a point of clarification. Mr. Shymko raised it this morning. The material that I distributed on the tourist area exemptions in Metro Toronto, which you have all seen, has the latest bylaws that are on the books.

With regard to the question that came up this morning, I believe at your initiation, Mr. Shymko, on the appeal provisions, we did consult the Metro Toronto legal department, which informed us that, contrary to some people's beliefs, municipal tourist area bylaws like these are not appealable to bodies, say, as with municipal zoning bylaws under the Planning Act to the Ontario Municipal Board. So there is no provision in the statute for appeal.

If a council were considering a bylaw that someone felt hard done by, a person could make depositions to the council when the council is dealing with the bylaw or, as in the case of Mr. Magder, for example, who feels aggrieved by the Chinatown tourist area situation, he can go to court.

The committee may want to consider, when we get into the final report stages, whether there should be an appeal provision written into the Retail Business Holidays Act.



Mr. Reville: I will give you an opinion right now; no.

Mr. Richmond: I just thought I would fill in the blanks a bit because that came up this morning.

Mr. Chairman: Any other business to raise? If not, may we have a motion to adjourn?

Mr. Guindon: You have got it.

Mr. Chairman: Mr. Guindon moves that we adjourn. All in favour? We will adjourn until 10 tomorrow morning.

The committee adjourned at 3:30 p.m.

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SELECT COMMITTEE ON RETAIL STORE HOURS

RETAIL STORE HOURS

WEDNESDAY, FEBRUARY 18, 1987

Morning Sitting



SELECT COMMITTEE ON RETAIL STORE HOURS

CHAIRMAN: O'Connor, T. P. (Oakville PC)  
VICE-CHAIRMAN: Guindon, L. B. (Cornwall PC)  
Barlow, W. W. (Cambridge PC)  
Bernier, L. (Kenora PC)  
Morin, G. E. (Carleton East L)  
Philip, E. T. (Etobicoke NDP)  
Reville, D. (Riverdale NDP)  
Sargent, E. C. (Grey-Bruce L)  
Shymko, Y. R. (High Park-Swansea PC)  
Smith, D. W. (Lambton L)  
Smith, E. J. (London South L)

Clerk: Mellor, L.

Clerk pro tem: Deller, D.

Staff:

Richmond, J., Research Officer, Legislative Research Service

Witnesses:

From Citizens for Public Justice:

Vandezande, G., Public Affairs Director  
Carrick, W., Co-ordinator for Ontario

Individual Presentation:

James, R.

From the Bay/Simpsons:

Agnew, J. B., Vice-President, Sales Promotion



LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON RETAIL STORE HOURS

Wednesday, February 18, 1987

The committee met at 10:09 a.m. in committee room 1.

Mr. Chairman: I see members from all parties present and a quorum present. We have a full schedule today of seven or eight delegations. I would like to get under way. Our first delegation this morning is the Citizens for Public Justice represented by Gerald Vandezande, public affairs director, and Wayne Carrick, co-ordinator for Ontario. I presume you are those gentlemen. Welcome to our committee.

The format we have been following is such that we will ask you either to read through your brief or to summarize your brief for us, following which we would like an opportunity to ask questions. The total time available for your delegation is one half hour. We would like to wrap up then.

To committee members, because of the number of delegations on the list today and the necessity of maintaining some adherence to the schedule, I am going to be as strict as I can about cutting you off and asking you to be brief in concluding all questioning by 20 minutes to 11, if we can.

Mr. Barlow: You may have to make that announcement again when other members arrive.

Mr. Chairman: Noting quite correctly, Mr. Barlow, that there are very few members here, we will do that at the time.

CITIZENS FOR PUBLIC JUSTICE

Mr. Vandezande: Thank you for this opportunity to appear before you. Unfortunately, it was on very short notice. I want to register our concern that committees of the Legislature give more adequate notice to groups such as our own, so they can properly prepare themselves. Even though we had written the day that the committee's formation was announced by the government in the Legislature for the terms of reference, etc., we did not receive anything in response to that. Be that as it may, we will make a statement this morning and then, at a later, time submit the brief which was in the process of being drafted but could not be ready this morning.

As a word of introduction, Citizens for Public Justice is an independent citizens' organization which deals with the need for alternative public policies. We are perhaps best known in this province for having assisted the Grassy Narrows band with its negotiations on the need for a public justice settlement involving the mercury poisoning in the English-Wabigoon river system. Of late, we have had considerable contact with the Office of the Premier regarding a wide range of social concerns and educational justice concerns as well.

Our concern, as a Christian public justice group, is that the government approach this issue on the basis of public justice, and we are pleased to hear that yesterday Mr. Peterson said that, in his view, polls should be abandoned and should be declared illegal. I think it would have been very helpful had the government, before pulling this committee together, announced its own

position regarding the act that is now being reviewed and had come forward with a position paper summarizing the public justice principle on the basis of which it would want to approach this issue. It cannot, on the one hand, say it wants to abandon polls and give leadership and, on the other hand, not give leadership in the particular area that is of such crucial concern to people in the province.

Wayne Carrick, who has been doing some research on this issue, will be summarizing our position on behalf of Citizens for Public Justice, Ontario. Wayne is the executive co-ordinator of our Ontario division.

Mr. Carrick: I want to make some remarks on this issue as a provincial issue, economic activity, freedom, the choice of Sunday and those who prefer a day other than Sunday. I will try to be brief.

CPJ acknowledges that the rest day legislation is a matter for the province to resolve. Aside from the constitutionality of the Retail Business Holidays Act, a common rest day is part of labour and social policy, which are clearly within provincial jurisdiction.

It is also necessary for the province to resolve this issue rather than refer it to municipalities, as is the emphasis in other western provinces. With municipalities' dependency upon property taxes, municipalities compete with one another for the commercial tax base and could end up competing with one another on seven-day shopping, as a municipality in one region begins to draw shoppers from neighbouring communities, shifting purchasing patterns. Also, a patchwork of different municipal regulations on retail shopping hours will distort other factors of good urban planning and lead to inappropriate developments on the borders of any city which adopts a rest day bylaw.

Leaving the matter to individual choice is not adequate for the larger social costs would not be taken into consideration; costs that the Legislature and the government must consider. If the province is to resolve the issue, CPJ would want to ask: What principle is being enshrined in any proposed legislation, what is Ontario saying through law on retail holidays about the kind of Ontario we want to have and which values will we allow to direct life?

In our present society a main focus, if not the main focus, is economic considerations with other dimensions of life considered secondary. As economic affairs assume such importance in our society, governments should be careful to prevent economic entities, including business enterprises, from using economic power to determine priorities and exercise control in other areas of life, areas such as family life, cultural life, social life, political life and neighbourhood community life. The demand by some for shopping seven out of seven days is indicative of a trend for economic considerations to be prime. It is a concern to increase the total amount of goods sold at the expense of other concerns in life.

There is an argument that has some currency, which says that Sunday opening leads to greater profitability and to greater prosperity. Citizens for Public Justice would like to see this committee address this argument in its research. Will Sunday opening increase economic activity or spread the same amount of activity over seven rather than six days? Will there be greater profitability or less due to increased overhead costs with constant level of sales, or will consumers absorb the costs in increased prices?

CPJ is not convinced that greater financial activity will result. For example, to paraphrase one editorial writer, seven-day grocery shopping will



not increase the amount of food sold. Ontarians consume a certain quantity of food, and people in Ontario are not going to increase their diets by one sixth just because stores are open one additional day.

There are other issues. The increase in business for one particular store could come at the expense of another store. Small businesses and neighbourhood stores will have a more difficult time against larger chain stores. Smaller and more independent stores in malls will be forced to open by mall owners, larger store chains and so on.

Aside from this economic debate pro and con, Ontario should ask itself a more fundamental question of whether it wants these economic concerns only to settle the issue regarding Sunday or whether there are other concerns that have importance. Does Ontario want a new forum of Sunday religious observance, shopping, where it can demonstrate its faith and its belief in material prosperity as the key to human wellbeing?

A common province-wide day of rest allows time for recreational activities, cultural events, sporting activities, enhancement of relationships in marriages, families and friendships with other people, other retail workers, all other employees who have Sundays or weekends off and children who are out of school. Such social, cultural, family and recreational activities, and worship activities for some, are fundamental to the wellbeing of individuals, families and society, but from a practical point of view, they can be carried out only if all the participants have the same day off.

Unrestricted commercial activity seven days a week would severely limit the opportunity of many to fulfil these listed needs and would increase pressure on various elements, including the family unit, that are essential to the health and wellbeing of society.

Some contend that Sunday shopping is an issue of freedom and that Sunday closing is an unjust limit on their freedom. More freedom in one area may well mean less freedom in another, and one freedom, that of unrestricted commercial activity, should not be absolutized to the detriment of others. More freedom for some to sell means less freedom for others, for those who want to to exercise their freedom to shop impose on others the necessity to work. Upon retail workers there is an infringement on their freedom to have the day off.

1020

Retail workers are not highly paid or overly unionized, and there is unemployment in Ontario. Low-income employees would be particularly vulnerable to employer demands for work in unrestricted commercial activity. In a battle between larger corporations with all their resources and the individual retail worker who wants to spend time with his or her family, we think it is one of the tasks of government to make sure that there is protection for the weaker. The government needs to step in here.

Leaving the matter of Sunday shopping to individual choice or to the opinion of one segment of the public ignores government's responsibility to establish a just framework for all in Ontario. Individuals who demand the right to shop seven days a week or enterprises that demand the right to sell seven days a week may not be aware of the costs to others or care to shoulder any wider social responsibility, but governments must.

Why Sunday? We think it should be Sunday for reasons of tradition and culture in Ontario. For whatever historical background, Sunday has become the



day that most Ontarians have come to regard as the general day of rest, a day for a change from the working and shopping week, a day for sports, family get-togethers and the like. To institute a different day would be difficult in the extreme.

Having said that, we want to say that the day of rest is for some in Ontario the day of worship, the day when faith communities gather. In Ontario we have many faith communities. It is our contention that justice demands that government must recognize and deal justly with the diversity of beliefs, convictions and cultures that actually exist in its jurisdiction, but government should not be an agent for enforcing adherence to a particular religious belief.

It must protect the ability of different groups, especially minorities, to live in conformity with their own convictions. It must allow for the expression of diversity of such convictions in various communities and their institutions, churches, synagogues, mosques, etc., and in other areas of life that are guided by that religious life view, the personal, cultural, social and economic areas.

Those who hold religious convictions that require a day off other than Sunday should receive protection to do so. Sunday, as the common rest day, allows Christians the time together for public worship. To compel others, business owners and workers of different faith communities, to not open or work on Sunday and have to refrain from opening or working on their own religious day would be unfair for the business enterprise and the market environment where they have to succeed then on five days rather than six, and similarly with workers whose take-home pay or employment opportunities would be reduced.

We would support the protection of those who, for religious reasons, prefer a day off other than Sunday. They should be able to open on Sunday if they close another day. I am sure Gerald Vandezande would like to make a few more points.

Mr. Vandezande: I have just one comment. We all know that the health and welfare budgets of this country--and we will probably hear more about it later today--have been steadily increasing, that the budget of the Ministry of Community and Social Services in this province has been steadily increasing and that there is always the cry that we need to cut back.

One way to ensure that these budgets will continue to rise is not to make it possible for family, marriage and community life to flourish, and that is by allowing seven-day work weeks. But if you make it possible for families and marriages and communities to strengthen each other and to flourish, then you will prevent the need for greater expenditures in terms of community and social services and in terms of health and welfare payments because you prevent family breakdown, marital breakdown and community breakdown. That is why it is so crucial that this issue not be viewed in isolation but be seen in the context of people's entire lives. I will leave it at that.

Mr. Chairman: Thank you very much, gentlemen. Questions now, starting with Mr. Barlow.

Mr. Barlow: In view of the short notice, you had an excellent presentation. You covered a lot of bases there, and I look forward to receiving your written presentation.

Your views are that the province should set the guidelines, not the local municipalities. We have heard both sides of that particular issue, and I am sure we will continue to hear both sides of that issue. What about putting it the other way: that if it were in legislation that the province says this, this or this, then the local municipality could opt out? In other words, if the province sets it up to have the common pause day under the present restrictions that allow a local municipality to opt out of that or--

No, let me go back and put it the other way. The province says, "We have certain restrictions, but you can opt out of those restrictions." Would that be a satisfactory solution?

Mr. Vandezande: I have a couple of comments. We do not do that on any other issue, to my knowledge. When it comes to provisions in the Ontario Labour Relations Act, for example, we do not say to certain enterprises or municipalities, "You may opt out of the provisions of the Ontario Labour Relations Act if you think they are too restrictive in terms of your particular municipality or business enterprise."

Government, and I think rightly so, has always taken the position that if it legislates on social policy or economic policy, it does that across the board and it tries to apply equity to all. I doubt whether the equality provisions under the charter would allow you to make that kind of opting-out provision. I think workers could legitimately bring a case to the courts, and we would be quick to move in there to argue that they are entitled to equal benefit of the law and that municipalities should not have the right to exempt themselves from the provisions of the law for their particular purposes and therefore create inequity.

In any event, the difficulty we have had, just to stay close to home, other than the community of Agincourt, if Agincourt says, "We will exempt ourselves from the provisions of the Retail Business Holidays Act, but Markham next door will not," then the competition of two communities that are next to each other would be fierce for the consumer dollar, and instead of facilitating and building up good community relations, you would create the wrong kind of competition. I do not know whether opting out in any event would do any good for anyone, because particularly in highly populated areas, you would cause friction between neighbouring communities, which is the last thing we would want to promote through legislation. We should promote social harmony.

Mr. Barlow: As you know, under the present Retail Business Holidays Act there is that opportunity for a local municipality to declare a tourist area. I think there are three areas in Toronto and other centres throughout the province that have tended to declare themselves a tourist area. You would like to see that loophole, if you want to call it that, plugged. Is that a fair statement?

Mr. Vandezande: I think loopholes are always bad because they become subject to a variety of interpretations, depending on who does the interpreting at the time. If you do make any provision for municipalities to make their own decisions, then I think the guidelines in the legislation and the criteria on the basis of which municipalities and others will be making decisions should be extremely clear and not be vague.

Again to use an example, the Scarborough Town Centre, which is a stone's throw from my house, I think is a legitimate tourist attraction. Many people go there for Sunday concerts and other cultural events, but I am not sure that therefore the whole mall should be open. I do not think shops are tourist attractions. I think it would hurt the community.

Mr. Chairman: Mr. Barlow, do you have any more questions? We have quite a list of questioners and only a few minutes left.

Mr. Barlow: Okay. Did I understand you to say that if, for religious reasons, a shop owner decided to close another day other than Sunday, that would be acceptable to you? If he decided to close on Monday, Saturday or Wednesday, then he could stay open on Sunday. Did I understand you to say that, Mr. Carrick?

1030

Mr. Carrick: The short answer is yes. I would not want someone who closes because of religious reasons on, say, Saturday, Friday or whatever to have to close again on Sunday. That would be to treat that particular religious group unfairly compared to others who, for religious reasons, would want to close on Sunday.

Mr. Barlow: What if I started up my own religion and decided to close my shop on Wednesday and open every other day of the week?

Mr. Shymko: He could be an atheist.

Mr. Barlow: That is true. He could be an atheist but call himself a religion of atheism.

Mr. Carrick: I would want to add that, for people who would define themselves nonreligiously, I think we are back to just a common social day of rest and, the tradition in Ontario being Sunday, choose that.

Mr. Barlow: Thank you. I do have other questions, but--

Mr. Chairman: Thank you, Mr. Barlow.

Mr. Philip: My question to you is in regard to the person who, for religious beliefs, wants to open up on Saturday. That could be somebody of Jewish persuasion or Seventh-Day Adventists or--

Mr. Vandezande: You mean close on Saturdays?

Mr. Philip: Yes; close on Saturday and open on Sunday. Have you thought of the problem, then, in a multi-religious, multicultural society of what happens to the employees who may not be of that religious persuasion? In other words, you are moving away from the concept of a common day of rest and moving more towards a day of religious observance. I think you can do that in a society like Israel or perhaps in some of the Moslem countries, where you have 95 per cent of the population being of the same religion. But in Canada now, particularly in Ontario or British Columbia, how do you deal with that?

Mr. Vandezande: I think, first of all, it is important--partly in answer to Mr. Barlow's question, because they tie in--that it be clearly established that the person does want to close for religious reasons on Saturday, and that may need some looking at.

Second, I think there ought to be provision that employees working for a firm of that kind should be protected in law that they be allowed to observe their own religious holiday, should that be the case. Now there is a tension in that situation, and rather than arbitrarily come down on the one side or the other, I think both protections should be put into the law, namely that



both the rights of the store owner and the rights of the worker pertaining to their respective religious beliefs should be protected.

Mr. Philip: You mention that--

Mr. Vandezande: Excuse me, Mr. Philip. It is important that in that context we look also at the labour legislation in the Employment Standards Act, because the assumption seems to be at work that we can compel people to work six or seven days a week. I think this legislation should be looked at in the context of other legislation, so that through this Retail Business Holidays Act we do not begin to set up new standards of employment legislation that really violate the very intent of labour relations and other social legislation. That is why we are concerned that this government may be moving on one front without realizing the ramifications it may have for other legislation.

Mr. Philip: One of the problems with the Labour Relations Act, of course, is that it deals with hours of work, but when you are talking about stores, you are frequently dealing with a large portion of part-time workers, so perhaps the labour act should be changed dramatically.

Mr. Vandezande: Absolutely.

Mr. Philip: In its present form you are not talking about just minor amendments.

One last question, because I know other people want to ask. You mentioned how low-income employees would be the most affected because they tend to be employed in retail trades. Would you agree that women would tend to be more affected than men, and indeed that, of all the groups, perhaps single-parent female-led families would be the most affected? If these people are working both Saturday and Sunday, it means then that the one parent the child has on a regular basis would not be at home at all in those free times when the children are at home.

Mr. Vandezande: I quite agree and I say that in the context of my own church community's life. Those would be the people who will be immediately affected. We have already some of us informally given it some thought that should this come about, what steps would have to be taken in order to make sure that these families do not suffer any more than they already do? Our primary focus currently is on preventing that disintegration of the family from coming about further, so we quite agree with you.

Mr. Philip: Would you agree that there might be motivation for some of these people to just say: "To heck with it. I am better off on family benefits when I can at least spend some time with my family than out working."

Mr. Vandezande: Quite so. That is why I made the comment. If you do a careful analysis, as I hope this committee will do, as to the origin of the applications for social assistance--and my wife is a social worker so I happen to be fairly familiar with some of the situations--I dare say that the statistics will reveal that as you make it more difficult for families, single-parent families particularly, to participate in meaningful employment, there is greater demand for social assistance; and as a result, government expenditures will increase because of marital and family breakdown. That is why it is important there be an integrated look at all the ramifications.

Mr. Philip: I am sorry I have taken so much time.

Mr. Shymko: I apologize if I will be a devil's advocate for a minute in some of the questions I will be asking.

Mr. Vandezande: Fine. We are used to devil's advocates.

Mr. Barlow: He is a devil, too.

Mr. Shymko: To conclude and to assume things without having any statistical factual background is what really concerns this committee. When you say that opening up Sunday shopping would be a major factor in family breakdown, which is your assumption, do you assume, for all the staff in a hotel where family members work in the service industry, for families in the entertainment industry, for families of those who perhaps run a family bookstore, that the breakup of those families, compared to others who stay at home, is higher?

Mr. Vandezande: I dare say that if this committee, as I hope it will, undertook a survey of it, I think it will find that.

Mr. Shymko: I am asking you, do you find that those families who are working on Sunday in the service industry have a higher rate of family breakup than those who stay home on Sunday?

Mr. Vandezande: No. I want to point out that those families which do not have a proper opportunity to spend time together as families, and those married couples who cannot, because of their work situation--and I speak from immediate experience within our church community--be together regularly as people, have greater tensions to deal with within their families and marriages and are much more liable to end up on the welfare rolls and in the courts asking for divorce, etc., than families who can regularly be together.

It is like the situation that has come about because of the introduction of shift work. It is not for nothing that we call the one shift the graveyard shift, which, statistically in the history of industrial relations, has contributed more to alcoholism, more to drug abuse, more to family breakdown, more to marital breakdown than any other shift.

So when you look at those things, then you have to ask, what is the interest of human and social wellbeing? I think this committee, given the fact that the government has an unanticipated revenue of \$919 million, should do some careful analysis of which cultural, economic and other forces have contributed to the disintegration of community life.

Mr. Shymko: Now you are talking. We should really make an analysis, because according to the facts that I as a member of the Legislature have seen, having sat on the standing committee on social development when we studied family violence, we saw that police statistics and so on prove that it is on weekends, on the Saturday nights, on Sundays when families are at home, that you have the highest rate of family crisis and family violence, for some unusual reason. It would be very simplistic to say that the solution to family unity and preserving the family is a matter of Sunday shopping or Sunday hours.

Mr. Philip: You cannot beat up your wife if you are not home.

Mr. Vandezande: But I did not make that point, sir, with all respect. The point I made is that you must look at it in context. I am not making the simplistic argument that you as devil's advocate are putting forward. I am not saying that if people are together then therefore you

automatically are going to have a happy life, but if you look at all of the dimensions, including the Sunday situation, then you might come to the conclusion that increased absence from the family worsens the situation. I dare say that if the research done by the Ministry of Health and the Ministry of Social and Community Services had been done well, then the contributing factors to family violence--

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Interjection: Are many.

Mr. Vandezande: --are probably not because they are home, but because of all kinds of other injustices in our society that contribute to the inability of people to have the kind of satisfaction in life, partly due to unemployment, partly due to lack of income security, partly due to inadequate housing, etc.

Mr. Shymko: Basically, what I am trying to say is that there is a complexity of the issue before us and a complexity of factors that contribute to family unity and a harmonious relationship. There are so many factors involved, but in the Sunday shopping area one has to be careful not to highlight it and give it the disproportional weight and value that sometimes confuses people. I have seen many families where, because of circumstances, one of the family members, either the father or the mother, has to work on Sundays that are excellent families. They are great families and the vast majority may well be maintaining a wonderful home environment.

Mr. Vanderzande: That may well be true.

Mr. Shymko: That is what I wanted to ask, whether you had facts and we should really do some research and compare some facts before we make any assumptions that would be generalizations.

Mr. Vanderzande: It is not because of but despite. I think that is important.

Mr. Chairman: I am wondering if I can interrupt for a moment here. I am sorry to interrupt Mr. Shymko, but we have reached the end of the time allotted for this delegation. I would entertain from the committee a very brief discussion as to the options we have available. We have seven delegations today. If we wish to continue questioning and I have two more questioners after Mr. Shymko--I sense Mr. Shymko is not nearly finished his questioning of this witness--we would then have to back up each delegation and simply freely discuss with each one as long as we wish and perhaps sit through the lunch hour.

Is that the wish of the committee, or do you wish me to stick strictly to a time limit of half an hour or the time allocated to each delegation? Could I hear some views on that because, frankly, those are our options. Those who do not get reached in terms of questioning, if we choose to cut off the questioning of this delegation, I would undertake that they would be first, second and third with regard to the next witness.

Ms. E. J. Smith: I think it is important that we not go on for too long. We are going to hear from many witnesses and go over many points several times. I think it is very hard on delegations who come on a week day and have to sit. In the course of our listening to many delegations, I think we are going to get a lot of information before it is over, so I would not favour



letting it back up too much. In the interest of that, I will take my name off your list.

Mr. Shymko: I just had one final question.

Mr. Chairman: Is there any other discussion on the point of order?

Mr. Guindon: I agree with Ms. Smith. I think we should adhere to the lineup and the time limits as much as we can.

Mr. Chairman: Would you therefore be in favour of my simply cutting off discussion at the end of the time and calling the next witness?

Agreed to.

Mr. Chairman: In that event, Mr. Shymko, whether you have finished your questioning--

Ms. E. J. Smith: I think you could maybe let it run five or 10 minutes, but I do not think you should let it run for half an hour, or anything like that.

Mr. Shymko: It is just that I find it interesting that it is in the midst of my questioning that all of a sudden the committee makes this decision. You should have thought of it when Mr. Philip was questioning.

Interjections.

Mr. Philip: Maybe for today you can limit each member to five minutes and they can be put back on the list if no other people want to question. In this case, I will not put my name on the list and allow some of the other members to question the next witness, so we can cut off immediately.

Mr. Chairman: Is there any more discussion on the point of order? If not, Mr. Shymko, have you completed your questioning?

Mr. Shymko: I have not, but if you want me to stop talking now, I will follow your orders.

Mr. Chairman: Far be it from me to gag you in the democratic process, but I would ask you to briefly conclude, if you will.

Mr. Shymko: I just had one simple question. You can time me. It will be close to 20 seconds.

Would you suggest that it should be Ontario that should designate tourist areas, define what a tourist area is and set the criteria, instead of leaving it to the municipalities that today can declare an entire municipality a tourist area? There is nothing to stop Metropolitan Toronto from declaring itself a tourist area. Do you want the province to do it? Municipalities do it now.

Mr. Vandezande: The reason we would like the province to do it is that you are dealing with social policy, employment conditions and the future of communities. That should be dealt with in the most cohesive, coherent and consistent way possible. To have a patchwork of a variety of bylaws across the province, particularly in communities that border on each other, is asking for community disintegration. It is not very helpful and certainly does not speak well if the government wants to do public justice to all.

Mr. Chairman: That concludes the questioning of these witnesses in that the other people whose names were on the list have seen fit to withdraw them. We appreciate your attendance here. We can expect a written brief from you in the near future.

Next, we have Richard James. Mr. James's statement is exhibit 8. Welcome and good morning. I ask you to either read your statement or summarize it for us, following which we would like to ask you some questions.

RICHARD JAMES

Mr. James: My position against letting people keep their stores open on Sunday is based on my belief that making money should not be the most important factor in life. I am for the quality of life. Canadians used to have a very rural type of life, where a large percentage of the population was farmers who had to feed and water a variety of creatures on Sunday, while shopkeepers, bank people, those in factories and businesses enjoyed a day of leisure. Now only a few Canadians have their lives controlled by the needs of four- and two-footed creatures on farms.

The change was seen as an improvement and even Saturday became a day when few had to work. The current great drive to sell and sell, even on Sunday, can become a hardship to many more people than just the number living on farms, and I am opposed to that. A reasonable number of milk and bread stores and a few gasoline stations should be open, with some people preferring to work on Sunday providing they get--

Mr. Chairman: Order. I am sorry to interrupt, Mr. James. There are several meetings, discussions and conversations going on around the room. I ask you to conduct those out in the hall, please, and allow us to hear the witness who is before the committee.

Mr. James: I am opposed to the enlargement of the number of people who have to work on Sunday. A reasonable number of milk and bread stores and a few gasoline stations should be open, with some people preferring to work on Sunday providing they get two days off during the week. What I really object to is when large chain stores want to sell on Sunday and put small individual stores at a disadvantage, either by losing out on business or by giving up their one day a week of leisure and being together that we have been accustomed to for generations.

Now I speak about another group of people who plan to make extra money. Yesterday morning, I listened to men speaking on CBC radio about holding hearings on some subject. One man said: "Do we really need to do that? We did it last year. Why do it again?" He was talking about these hearings. He mentioned the cost to citizens, so I am here to try to let citizens know of the cost.

It is my understanding that when the Legislature is not in session, each MLA--I see you call yourselves MPPs, but either is satisfactory, I think.

Mr. Shymko: Mr. Timbrell called himself an MLA.

Mr. James: I do not know which you prefer. I am saying the initials are exchangeable.

It is my understanding that when the Legislature is not in session, each MLA attending a hearing such as this gets \$65 a day and a dinner allowance of \$27.

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Mr. Shymko: It is \$68.

Mr. James: Is it \$68 instead of \$65?

Mr. Shymko: Yes, it has gone up.

Mr. James: Also, getting here from out of town counts for a day and a dinner, so two days of hearings can result for many in four \$65 days plus a few \$27 dinners. Is that \$90 not really extra billing? Are you not the people who will not let doctors extra bill?

Mr. Chairman: Not we people.

Interjection: Those guys.

Mr. Chairman: Those guys over there. Talk to them.

Mr. Shymko: They had that position.

Mr. James: Doctors take seven to nine years of training for their skills and some can follow that skill for only a limited number of years, especially if they are very skilled surgeons. MLAs are paid while they get some training as school board trustees and members of municipal councils. Then they get here and arrange for indexed pensions for themselves, along with what Ottawa does.

The letter to the editor shown here appeared in the Globe and Mail on February 17 and deals with Timbrell's pension. I am here to try to make sure people know that you, who will not let doctors extra bill, have a little known, cushy extra-billing procedure for yourselves.

Mr. Shymko: On a point of order, Mr. Chairman: With all due respect to the witness, I wonder what the relationship is between these hearings and a former member of the Legislature and his pension, or all people including some retired New Democratic Party and Liberal members who are collecting pensions. I understand your concern but I wonder whether it is fair to single out one member of the Legislature, one member of one particular party, and highlight that at these hearings.

Mr. James: This clipping refers to the fact that Timbrell is not an isolated situation. It happens in Ottawa where we have ever so many MPs who are slated--

Mr. Chairman: I do not think that is a valid point of order. I ask the witness to complete his statement and then we will direct questions to him. Perhaps, Mr. Shymko, at that time you can ask him questions along the lines you just raised. Carry on, Mr. James.

Mr. James: The letter to the editor shown here appeared in the Globe and Mail on February 17 and deals with Timbrell's pension. I am here to try to make sure that people know that you, who will not let doctors extra bill, have a little known, cushy extra-billing procedure for yourselves. I ask that you have public hearings such as this one so that doctors and others can come and discuss your extra billing, which must cost \$2,000 a day. I understand several committees are holding hearings. Do these cost \$6,000 or \$8,000 a day in extra billing? Are they really necessary? I mean, are some others being held for the second time?



Richard Thomson, chairman of the board of the Toronto-Dominion Bank, told his shareholders about a year and a half ago that we Canadians carry an individual debt that is twice that of a United States citizen. He said at that time that our debt was between \$8,000 and \$9,000 per man, woman and child in Ontario. We speak of a deficit in Ontario of only some \$2 billion or \$3 billion, but the total debt, the accumulation of those deficits, is about \$33 billion. It is the same in Ottawa. The deficit mounts each year and it is up to about \$260 billion. Ontario's debt plus Ottawa's debt, for which we are all responsible, means we have a debt to carry that is twice that of a US citizen. This should be stressed in schools because it is those people who will have to pay it off

I am saying that although \$6,000 or \$8,000 a day for hearings such as this is piddling, they and ever so many others mount up. As Thomson of the Toronto-Dominion Bank said, these expenses are increasing by \$1,100 a year. I am asking you to keep these things in mind when you are arranging for meetings that are expensive.

Mr. Chairman: Does that conclude your remarks, Mr. James?

Mr. James: Thank you for letting me vary the topic. I have thought of this for a long time but I have not had an opportunity to say it.

Mr. Chairman: You did stray from the topic before this committee to a certain extent. Initially, in getting into the second part of your presentation, you were quoting someone on the radio who, I believe, was myself and thus there was some relevance to your comments. I think you got away from the topic somewhat and I let you go on to the extent you did. You certainly know how to get the attention of politicians and that is by speaking about their remuneration and emoluments.

Mr. James: I feel a little sneaky this morning but that is the only way.

Mr. Chairman: We were all listening with rapt attention. There are two speakers on the list; Mr. Bernier first.

Mr. Bernier: I have just one point. I am not here to defend the extra pay the members of this committee are getting, but I have to take some exception to the extra travel days you refer to. I represent the riding of Kenora.

Mr. James: Yes, I know.

Mr. Bernier: That is some 1,250 miles from this building. That is equal to the distance to Halifax, Nova Scotia. It takes me anywhere from seven to 10 hours to get home. Do you think it is fair that I should use my time for that kind of travel and not be compensated? I do not defend the people who live in Toronto, but I have to defend those people who live some distance away.

Mr. James: I am not critical of this as one big important factor; I am saying it is an accumulative type of factor that can put us further and further into debt.

Mr. Shymko: I want to congratulate you, Mr. James, for appearing before this committee.

Mr. James: Thank you.

Mr. Shymko: We have very few individual members of the public who appear before public committee hearings. Unfortunately and tragically, interest and lobby groups and various corporations and organizations do, but single individuals such as you are very few and I want to compliment you on that, notwithstanding some reservations I had on another ther topic you raised about an individual member.

All of us have responsibilities in representing our constituencies and I think many of us would have preferred to be in our constituencies now dealing with the problems and cases of the people we represent rather than be sitting on a committee that many of us, including the chairman, feel is a repetition of a task force that has already been held. Some of us concur with you, Mr. Chairman, that this is an impression the public has of some of the anomalies of this standing committee, following hearings that were already held by one party.

You are quite right that there are those who share your views as to the reason for holding these hearings. Notwithstanding that, the \$68 or so per diem is part of the regulation. Perhaps you have suggestions that we should eliminate this and maybe be compensated in some other way. All of us spend a lot of time. We are here practically all day. We could be in our constituency offices dealing with other cases. That is the way the system has been set up. Do you have any suggestions?

Mr. James: Yes. It is that more of these committee meetings be held when the sessions are being held, even including some in the morning, such as now, because I do not think the Legislature always sits in the morning. I do not know the hours. What are they?

Mr. Shymko: They do not. Mr. James, do you feel it is important to hold public hearings to listen to individual citizens whose lives will be affected by the laws we pass, that prior to passing the laws we should listen to what people have to say?

Mr. James: I certainly do. I agree with all that and I am grateful for the opportunity to speak to you.

Mr. Shymko: Thank you for stressing that. Sometimes we pass laws and amendments to bills that do not go through a process of public hearings. I certainly have been one who has raised this on some legislation some members are quite familiar with.

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Mr. D. W. Smith: Like the rest, I appreciate your comments this morning. As a new member around here, I hear about members of different professions who become politicians. I have even heard some of them say that they paid more in income tax at their jobs before they came here than they make as members. I am sure those people must feel they are taking a tremendous cut in pay, however you look at it. I wonder whether I can ask a question of you. What was your background? What was your profession as you worked through life?

Mr. James: I did not have a profession; I was in business. Lots of people in real estate work would disagree with me on that. They say they are in a profession; I say it is a business. I have been a member of the Toronto Real Estate Board since 1931. I was with A. E. Lepage Ltd. in the 1930s. I was in the air force for five years. I was not air crew; I was an administration

officer and adjutant for two and a half years. I explain that because I was not taking a chance on my life, as ever so many others did.

I am more concerned with the future of Canada than a heck of a lot of other people. They say: "What can one individual do? You cannot do anything" I disagree. I could enlarge on that very extensively. I believe that if a person has a hell of a good point of view, an argument that cannot be shot down, then he should promote it and if he gets enough publicity, it can be effective. I could give you two instances, although I will not do it, where I did have legislation changed in the late 1950s by exposing a situation that very few people knew of, so I am one who I think in a modest way helped to build and defend Canada. I still am not too old to have the desire and energy to continue. That is why I am here.

Mr. D. W. Smith: I think it is people like you who with determination will get your point across and eventually things do change.

Ms. E. J. Smith: I just want to comment to you on your remarks to the members of the committee about whether the process of listening to people is a waste of time. The committee system is very important to our process of democracy so that people like yourself can come forward. I can imagine what a howl we would get if the Liberals set up a task force and travelled through the province as a government and came back and said: "Now we will do it. We do not need to discuss it in a three-party system. We have decided." I think it is ridiculous for people to suggest that because one party, for its own reasons and possibly to help change its leader's mind because he had taken an opposite point of view, went out and talked to people, therefore the rest of us should not listen. I think it is very important that we all listen.

Mr. James: I do not know why you are telling me this because I have not implied anything to prompt that remark. I am not ridiculing--

Ms. E. J. Smith: It is a waste of time and money, so to speak.

Mr. James: I go back to my statement that if more hearings were held while the Legislature was sitting, then the number of extra ones while the Legislature is not sitting involving \$100 a day per person would be minimized. That is all.

Ms. E. J. Smith: Believe me, speaking at least for the members of the Liberal Party, because we are short in numbers we could not have people sitting more time than we do. They sit when the House is sitting. They sit when the House is not sitting. There is so much work to be done because there are so many bills being put forward.

Mr. James: May I reply to that? In the United States, a congressman represents 550,000 people. In other words, there are 450 members of Congress and there are 225 million people, so it works out to what I said. A member of Congress represents more than 500,000 people. I have not worked it out for Ontario, but in Ottawa a member of Parliament represents roughly 85,000 people on a general scale. He represents about 11,000 or 12,000 as far as Prince Edward Island is concerned.

Coming back to the fact that a member of Congress can represent 500,000 people and presumably do it well--

Mr. Reville: I do not know about that.



Mr. James: --and an MP looks after only 85,000, does that mean that a member of Congress in the United States is six to seven times more efficient and able?

Mr. Philip: If I had 14 staff, I could look after a lot more people too, the way a Congressman does.

Mr. James: Fourteen in staff. I have been surprised at how many staff people have, both in the Legislature and in Ottawa. I was down in Ottawa a short time ago and went in to Al Lawrence. Gosh, he has about four people standing around, as I think does everybody else. George Hees has a bunch. I was speaking to him too.

Mr. Chairman: May I just interrupt briefly here? This is a very interesting, general discussion, but we are now wandering quite far afield from the subject before us. I am wondering if there were any more specific questions on the Sunday shopping issue. Mrs. Smith, had you concluded your questions?

Ms. E. J. Smith: I have concluded.

Mr. Chairman: Are there any other members who wish to ask questions? If not, I would thank you very much, Mr. James, for your time and effort and do apologize again for the short notice. As you have correctly pointed out, there was not enough time and that is the difficulty we are running into with a number of delegations. Thank you for your attendance and I will take your brief into consideration.

Mr. James: Thank you very much.

Mr. Chairman: Our next delegation then is The Bay and Simpsons which have provided us with a lengthy written brief. It is exhibit 9 in your material before you. They are to be represented by J. B. Agnew, vice-president, sales promotions. Is Mr. Agnew present?

Good morning. Welcome to our committee. Thank you for the lengthy brief you have provided and the number of copies. Again, I would apologize for the relatively short advance notice to all delegations as to our hearings. It was a problem of co-ordinating time and space and making that available to us. I do welcome you here this morning and would ask whether you wish to read through the brief or perhaps summarize it. In light of its length, it might be better to summarize some of the highlights, following which we would have some questions for you.

Mr. Agnew: Fine.

#### THE BAY AND SIMPSONS

Mr. Agnew: First of all, thank you for inviting us. I am glad you brought up the fact that there was lack of notice. I suppose what concerns us more than the lack of notice is the fact that we had been totally chastised by the Attorney General (Mr. Scott) about our unco-operative nature, aggressive stance and irresponsibility. Then when we decided to play by the rules, the rules ceased to exist.

I also have to express a concern about some comments in the press attributed to members of this committee vis-à-vis the validity of the committee in the first place. I do not know whether that underscores our

original point or not, but we find it disconcerting to say the least.

I suppose a lot of the the background information on Sunday shopping has come from the Tory task force. You will see the brief set up to basically challenge that task force because we believe it is unsubstantiated rhetoric. We think it is statistically invalid. It is factually incorrect and it draws illogical conclusions.

Mr. Sargent: Not a Tory, surely.

Mr. Chairman: Other than that--

Mr. Agnew: It sounds hard to believe, but it is true.

Interjections.

Mr. Agnew: Mind you, it makes great reading.

Mr. Chairman: Thanks.

Mr. Agnew: I would not submit that as a thesis. I think you might get an F.

Mr. Chairman: You were not planning on entering politics, were you?

Mr. Agnew: No.

Interjections.

Mr. Agnew: Having said that, I suppose the Hudson's Bay Co., specifically The Bay and Simpsons, as the world's oldest company that employs 60,000 people across this nation, and it has been in business for 316 years, has to go on record as saying it is not an irresponsible citizen, corporate or otherwise. We believe that what we have to say is true. We believe it is economically viable for a company such as ours and we certainly hope the government takes it in the spirit in which it is offered, because there were comments in here about greedy merchants.

Let us just put that to rest. We are in business to make money as is everybody else who has made a submission here in terms of a business proposition and they all have opinions. People who normally come to committees obviously have an axe to grind, as do we, but the bottom line is economic viability. All we are concerned about is that whatever law is passed does not inhibit our ability to compete fairly in the marketplace.

We believe the current law as it stands is riddled with discrimination, in all forms, but we will just address the economic factors there. It is inequitable. It is arbitrary and in many cases very self-serving, and I mean politically self-serving. It ignores rational economic factors, and I think the most important part of all the literature we have read and researched over the last month and a half is that it totally ignores the consumer. It is hard to believe that this task force is meeting and there is not one piece of major research study done on this issue in this province, which I think would make this whole presentation relatively academic.

I guess the major issues we want to discuss are things that have been raised in the press and by personal comments. The one we will start with is the six days of business into seven, and that all we are doing is taking the

same dollars and spreading them out over seven days and therefore everybody is going to lose his or her shirt. We happen to be open in two provinces, and I suppose the people of Alberta and British Columbia must be wondering about this committee hearing because it tends to imply that they are a bunch of Punkinheads to allow something like this to happen in those provinces. However, I would also like to point out that there were a lot of happy people who visited Expo 86 and had the ability to shop on Sundays in Vancouver.

The bottom line is that it is not six days into seven. It is an expansion of business. We have detailed our sales over the last year and a half and sales do grow in total terms, vis-à-vis provinces that are running on a six-day week. It varies by the marketing activities and the time of year but the lowest increase we experienced was around nine per cent of overall volume growth. We suspect, because we track market share of our competitors, that their market share grew at roughly the same amount in total volume growth.

The fact that it is going into seven days assumes there is a universe for retail goods and services or department store type merchandise as we call it in our business. In total, DSTM is only 30 per cent of total retail sales. All department stores in Canada represent only nine per cent of total retail sales and the Bay and Simpsons represent about 1.4 per cent of that. To say that the size of our company is going to cause economic disadvantage to the people who happen to have 69 per cent of the market share, or put another way, happen to have 30 times more volume collectively than we do, is absolute nonsense.

Part of the reason they enjoy that market share, I might add, is the fact that in Ontario convenience stores, drug stores, etc. are economically supported by the fact that we are not open for seven days and they are. Presumably, a Shoppers Drug Mart store would not be open seven days a week if it did not make any sense, but it does make sense in the current situation.

The major concern we have is the consumer. Whether they want to shop seven days a week, obviously, does not seem to be the issue, but leave that aside. I guess the whole point comes down to the fact that seven days a week for some stores and not for all is going to raise prices to the consumer, and what price is convenience? I would suspect somebody who wanted to do a major study, and we possibly might do it ourselves, is to go and do a shopping basket at a Becker's store or a Mac's milk store and then go to a Loblaws Superstore or whatever the case may be, and find out just how much convenience does cost the consumer, because nobody in this room believes that things are cheaper at the corner store than they are at a Superstore.

Mr. Reville: It is 32 per cent more.

Mr. Agnew: Thank you very much.

I think that question has to be looked at. And yet, we are subsidizing this. I do not want to get into the Ed Borins question about what is better, Penthouse or Shakespeare because we would probably have a split vote, but I think--

Mr. Reville: No, you would not.

Mr. Agnew: --the question we have to deal with here is that an independent store presentation is self-serving. It has nothing to do with literature or what is being sold. It has to do with somebody wants to open three bookstores, and if you open three bookstores then presumably Coles will



open their 250 and W. H. Smith will open theirs. The fact that we happen to sell books is totally irrelevant to the issue.

We are looking specifically for equity under the law. To take it to its absurdity in total is that if you want a common pause day, which we have no concern about or no opinion about, then close everybody. Shut everybody down. I do not think the public will buy it, but you are in a position to do that. That becomes the major issue. But the minute we start having exclusion--and I do not want to fight the liquor and movie battle all over again, I think we have been through it--I think we have to come up with some formula that is going to allow realistic competitive propositions in the marketplace.

The question of jobs has been a major issue, not only in the task force but certainly in the story since about December 15. The Bay and Simpsons are prepared to guarantee there will be a major influx of new jobs into our operation and part-time people will actually be getting more work. Statistically, that is in the report in terms of the number of people we have, how much is part-time, how many people we will have to employ. I am not going to try to twist your arm with logic. I am just saying you cannot open a store to do business for another eight per cent of its total weekly hours and do that by manipulating the current hours that exist. It is an absolute impossibility.

It remains that our statistics show that on Sunday, which represents eight per cent of our total hours during the week, we do somewhere in the neighbourhood of 11 per cent of our total weekly volume. It is also the highest sales-per-hour day. As a matter of fact, we do more business on Sundays than we do on Monday, Tuesday, Wednesday and we do it in six hours instead of 12. To say that Sunday is not profitable is just bad mathematics, if somebody cannot work that out. It certainly draws into question whether the hours we are open during the week, nights, mornings and that kind of thing, is valid, and we are looking at those.

Certainly there are retailers of our size who at this stage of the game run bizarre hours. Woolco is a good example. It is open six days a week from 10 o'clock until 10 o'clock. From our point of view staying open until 10 o'clock is insanity. Obviously, it works for them for whatever reason, but I do not think hours of regulation is the point. If that is how they feel they want to run the business, that is up to them. If we want to open at six o'clock in the morning, or possibly to run for 24 hours and that is economically viable, so be it.

We believe that the government should try its best not to get involved in the marketplace because every time it does, it distorts it and makes things happen that are not realistic and the consumer ultimately is going to pay the price. We basically want to compete fairly in the marketplace. Getting back to my earlier argument, obviously, everything is not going to be closed.

We make a major analysis and statement on tourism. It is a very big factor for Ontario. It employs over 200,000 people directly in the business. Without getting ridiculous about it, Niagara Falls is not the same as a small community in northern Ontario. It has different needs and different desires. It has to economically compete and take advantage of what is offered to it. And to have that in a restricted situation, as in the case of Windsor where the main street is deemed a tourist area and yet all the shopping is done in three major shopping centres off the main street and the only thing on the main street happens to be strip houses and hotels, does not make any sense to us. However, if that is how the city of Windsor wants to operate, fine. We do

not have a problem with that, but make sure everybody is closed.

With regard to most stores that are open on Sunday, there is a misconception, I believe, that all these small stores you find on the corner are independently owned and operated. That is totally false. They are basically stores of major chains, all marketed under common guidelines, and are either done on a lease or franchise basis but are totally marketed and controlled by major companies, a lot of which are not Canadian. Yet, as a long-standing taxpayer of this country, we feel it is not fair.

That is really our whole point. We will guarantee the jobs. That goes without saying. Is it a question of a common pause day, or it is a question of how much people get paid on Sunday? I think that the committee has to decide. Is this a philosophical issue or is it a money issue? They are two different arguments.

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Under 900 collective agreements in Ontario right now, 40 per cent of the labour force is in a position to work Sundays by collective agreements. Whether they do or do not is another question. However, Sunday working is a fact of life. The government works, the essential services work and the racetracks work. There is an essential service for you, and yet that is government run. Sure, they say the Ontario Jockey Club made the decision, right, but the jockey club happens to route back up through one of these corridors.

Our argument is why is that valid if you want to be intellectually honest? We can be as intellectually honest or dishonest as anybody else, but all we are saying is just be fair. If you are going to argue the common pause day, then make it a common pause day, follow through with that recommendation and turn the key, and we are all happy.

If you are not prepared to do that and you are also not prepared to go to the far end of the spectrum and say to throw it wide open, then we would recommend in our recommendations--and there are a few of them in there--that the most advantageous situation probably is to let the municipalities have a look at this because each municipality has its own specific situations, and we believe they have to be addressed. I do not know how you are going to do it sitting at the top of the pyramid and making the call with a universal piece of legislation. You end up right back in the courts again as you will be in April under another section of the charter.

At this stage of the game, I suspect that everybody is really trying to get a resolution to this problem--we hope--because we are not going to let go of this. Above and beyond all else, it is hard to believe that in 1990, in Ontario, this issue is still on the table. Frankly, in the whole scheme of the economy of the world, it is really a bit of a no-brainer.

I think the fastest way to find out would be to go out and do a major research study or, further, possibly at an election that is probably somewhat imminent, let it become a referendum. Let the people of Ontario decide what they want to do, and then put it to rest for another 15 years. I do not know whether that is a valid recommendation or how the parties stand on it, but it seems to me this is a consumer issue. It is not a legislative issue. Workers are not under the same situations as they used to be.

One of the major comments that was made in this report was that the



retail worker was at the low end of the spectrum, was basically a woman, was totally picked on, was disadvantaged and made to work because of her circumstances. Maybe part of that is true, but it is certainly not true in department stores. Our entry point is \$2 an hour higher than the minimum wage. We pay more than specialty stores do, of which you are allowing a lot to open. In stores that are currently open, generally speaking, employees who are paid minimum wage and work four to six hours a week are not covered by any benefits whatsoever. We are saying because we happen to pay more and we happen to have a better benefit package, we are also not going to be allowed to open for whatever reasons. Frankly, we have never seen a reason that we have been excluded.

I find it kind of interesting that independent grocers make a statement that Sunday shopping is going to impact on their business. I should certainly hope it does because they are charging the consumer through the ears--or any other orifice you want to pick--in terms of what they are getting for their money and they are getting away with only because there is no competition. I think the committee has to be realistic about these things. We are certainly not going to come in here and make a presentation on something that does not make any sense to us as a company.

There are stores that you would class as department stores that disagree with us. That is fine because our recommendation has been all along that the major shopping malls--and we are a mall society--are the places that people go for entertainment. They flock there on Sundays, whether it is to see the car show, the plant show, to buy some pantihose or whatever they want to do, and the malls do exceptionally well. If you are not in a mall, maybe you have a competitive problem, but I do not think that in itself is a reason to say that 69 per cent of the market should be allowed to discriminate against the smaller section, and that is what is happening. General merchandising operations are totally prohibited from doing anything under the subsection, yet we sell specific categories and commodities that every store that is currently open in Ontario right now sells.

I guess that is overall our concern. We addressed each point in here as well as we could. Obviously, there are probably a lot of questions on your minds about whether we are right or wrong, but we are doing this in good faith because we believe it to be true, and we have the experience of having done it. I could probably go on and on, but possibly there are some questions that you want to fire at me.

Mr. Chairman: That was well put, forcefully put, and I think we certainly got your message. As you did mention briefly, you have approached the matter from an economic point of view. As you say, you have to; your bottom line is the dollar. You are a big retailer, you are in business, and your primary concern is your obligation to your board of directors and your shareholders.

We, as the government and as a legislative committee, have other considerations we must take into account in deciding an issue such as this. It is not just an economic issue. It is a sociological or social issue, it is a religious issue and it is a lot of other things which we have to take into consideration in our deliberations. I think you realize that because you did touch on it. For that reason, we do approach it from a slightly different point of view than do you. However, it was very well stated. I have a number of questioners. Mr. Philip was first.

Mr. Philip: My question comes, I think rather appropriately, after



your statement. I find it interesting, for somebody who criticizes the Conservative Party task force for being unscientific or unstatistical--if that is a good English word, and I am not sure that it is--or statistically invalid, that nowhere in the report do I find any survey of what your employees think of giving up their Sundays away from their families in order to be in the store. Was such a survey done of your employees?

Mr. Agnew: The survey was done on the basis that we asked for volunteers to open on Sundays and on the basis that none of our employees would be made to work on Sundays, period, only those who wanted to have extra hours of work. The only arbitrary question was that our management staff would be forced to work one Sunday a month.

Mr. Philip: Sir, I have a background in training personnel managers, and I can assure you that in most companies any employee who refused would feel that somewhere in his file or in someone's head there would go a mental note that this person is unco-operative, that he is not a company man and that he is not pulling his load.

Suggesting that somebody did not volunteer for something that he or she knew the company wanted him or her to do does not really tell me very much. It just may tell me that your company is more coercive in its personnel approach than was necessary, or maybe that in the eyes or in the heart of the employee there was coercion, whether or not there was.

Mr. Agnew: Excuse me. Was that a question, or did you make a speech?

Mr. Philip: I am sorry, sir. This is the Legislature, and we are allowed to ask rhetorical questions.

Mr. Agnew: If I can answer your question, my point is we did not coerce our workers. We gave them the option of working Sundays. We did not make a note on their personnel records that they did not work. You are making a statement that is totally factually untrue. This was a high-visibility issue. We would obviously be insane if we said we were going to do something and did not do it.

Second, we are going to have to hire more people to work. The way we are structured, we have to hire people to work in our stores if we are going to open on Sundays because we have made it a flat personnel rule, not only internally but to the press and to the legislative committee, that we will not coerce people to work. I do not like the implication that there is something else going on because there is not. That is all I have to say.

Mr. Philip: I suggest to you the average employee would not believe that.

Mr. Agnew: Then obviously we are going to have to do a much better job of making sure they believe it.

Mr. Philip: I want to ask you about page 7 of your report, where you say, "As a result of Sunday shopping, retail sales in our stores in the provinces of Alberta and BC have expanded."

Mr. Agnew: Yes.

Mr. Philip: Can you tell me over what period your survey was taken?

Mr. Agnew: The past year and a half.

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Mr. Philip: Would you agree that it may be an initial increase and that, as a result of the new openness of Sundays, it may not be a continued pattern?

Mr. Agnew: What has happened is that because we are around in ourselves and we can compare Monday to Monday and Sunday to Sunday in the first year, in fact, Sundays are becoming a bigger day as a percentage of our week, as well as sales increases over the previous year. Sales increases over the previous year can be somewhat misleading inasmuch as we may be getting some of those sales by doing a better marketing job than the guy across the street. You cannot take the total sales increases as just total growth. There may be some market share gain there.

Our overall feeling on the matter is that Sunday, as it has been around longer, has gained in popularity. We are some erosion on Monday, without question, but again, part of it is the marketing effort that goes into whatever you do on Sunday. It becomes another day of marketing activities, just like Thursday.

Mr. Philip: Can you tell us what your sales increase was in BC last year compared to Ontario?

Mr. Agnew: Our sales increase in BC last year was double that of Ontario.

Ms. E. J. Smith: Would that be because of Expo?

Mr. Agnew: Expo impacted on our downtown Vancouver stores substantially, but in the suburban stores and those we have in the interior of BC, there was not really much impact out there. Part of the reason we are getting major sales gains in BC, against the national average, if you will, is that there is a lot of market share gain there, for what is going on in the marketplace with some competitors and that kind of thing. We have enjoyed the best year of sales in BC we have had since 1979.

Mr. Philip: Essentially, you do not have statistical proof that there is a direct increase in your market or in your sales as a result solely and exclusively of the Sunday openings?

Mr. Agnew: Sure we do, because we can track our market share gains and back them out of our total sales. We know exactly what is happening. It comes out to about nine per cent, as close as we can figure it, and it varies by week. But those are roughly our basic numbers, because we can compare it day to day with any other store in any other province in Canada at this stage of the game.

Mr. Philip: It will be interesting to see the backup research that you have on it.

Mr. Agnew: Sure.

Mr. Philip: I want to question you on the assumption that is found in the statement that the total spending dollars are not finite.

It seems to me that if Mr. and Mrs. Jones put money in their bank and save it as a result of not doing spontaneous or notion buying at The Bay on Sunday, eventually Mr. and Mrs. Jones may use that in some other way, such as the purchase of insurance, a retirement savings plan or the down payment on a house. That money does not stay indefinitely in the bank or, even if it does go into the bank, it is lent to someone else to purchase something in some other way. To say that it is not finite strikes me as being somewhat inaccurate. The money is going to be used to purchase something.

It may not be used to purchase Bay goods. It may be used to purchase a home or it may be used to purchase a mortgage that allows an office building to go up in downtown Toronto, but it is going to be used for something. It does not just sit there indefinitely. Otherwise, interest rates are eventually forced down and then the money is pushed out into the market in some way or another.

If the people are not spending the money in your store, eventually it finds its way back into the market in some other form that may, in fact, create more employment than the employment you say you is created by the extra Sunday.

Mr. Agnew: It could possibly be. Our argument is not that there is not a finite amount of money generated in Canada on a yearly basis. Our argument is simply that in the sector called DSTM or department store type merchandise, which excludes food, cars, gasoline and all those other issues, to say that aspect is finite is wrong. It will expand and contract for all sorts of different reasons.

Sure, it might be simply the fact that the savings rate does come down and an RRSP is not bought and a new chesterfield suite is, but in our business it is not finite. In the department store sector, it is not finite. We can expand our business. It might be at the expense of a new car, but that is the business we are in. We compete for the absolute dollar, just like everyone else.

The guts of this argument is that a store that is open seven days a week can do only six days worth of business in seven. Our point is that is invalid. You can do more business. Sure it might be at the expense of the racetrack or movie theatre or La Scala, but there is more business generated in our sector.

Mr. Guindon: Would it be at the expense of smaller businesses that you gain your market share?

Mr. Agnew: Possibly, if you consider Shoppers Drug Mart small. We do not consider it small. We do not consider Loblaws or Coles books small. That is the whole point: What is small? Right now, the small people have the bulk of the market share in this country, and our argument is that there is nothing wrong with that. That is the market, and we have to get out there and get some back. I think anybody who is in business would argue the same thing. We are saying, "Don't tie our other hand behind our backs to do it." Nobody has a God-given right to run a business, unless he is providing some service that the public wants to support.

Mr. Philip: I want to ask you a question about page 11. I find some of the assumptions one might draw from what you are stating to be somewhat questionable. You state, "Of the visitors surveyed, 1.1 per cent listed shopping as their primary reason for visiting Metro Toronto."



Would you agree that a large percentage of that 1.1 per cent could shop equally well on Saturdays or during the week? The fellow in Peterborough who needs to buy a generator for his construction company comes to Toronto because that kind of generator may not be available in Peterborough. He buys that product, or that truck or whatever it is, but he could just as easily buy it on Saturday, and most of that shopping is business related.

Mr. Agnew: I would agree with that.

Mr. Philip: There is no indication then that staying open on Sunday would in any way increase that 1.1 per cent?

Mr. Agnew: I do not care about the 1.1 per cent; I care about the 51 per cent.

Mr. Philip: Would you not agree that while the visitors surveyed listed shopping as one of their main activities, they would do that activity on the other six days of the week when they are attending a convention? Most conventions I have attended have an awful lot of spare time in between or some seminars that are rather boring from which people take off.

Mr. Agnew: That is very possible. We are just putting out the facts. We are not saying what percentage would want to shop Sundays or anything else. That study would have to be done by the tourist department or whatever the case may be. We are just putting out the facts about tourism and saying shopping is a major issue with tourists. Presumably, they are not all here Monday to Friday. A lot of them come in on Wednesday and so on.

Mr. Philip: One last question then: Would it not be fair to say that if I were an outside businessman attending a convention on Sunday and my wife and I did not go shopping, we might be spending our money at the Royal Ontario Museum, the Ontario Science Centre, restaurants, dining rooms or other areas and, therefore, we are not necessarily depositing fewer dollars in the city or in the country? Because of the fact that we are not shopping on Sunday, we may be spending more money on other activities.

Mr. Agnew: Possibly, if those other activities are particularly great generators of spending. Museums generally are not. The argument we are making is that shopping is related to the ability to do it, the convenience to do it. If you cannot shop, you do not shop. It is about that simple.

Mr. Philip: But art galleries are. I could buy a painting that is worth a lot more than a suit.

Mr. Agnew: That is true. If the art gallery is open alone, that is one thing, but it is interesting that the shop that sells the postcards and all the other stuff is open within the art gallery and it is a store.

Mr. Philip: That is something we are dealing with.

Mr. Agnew: Not exactly. If we are going to be honest about it, the art gallery availability is one issue. The fact that it runs a store inside it and it is open on Sunday is another. Because it happens to be in the art gallery, everybody does not worry about it, but it is an issue that has to be looked at. If Sunday shopping is not valid, then why have the store open? Why have the thing at the zoo open? That thing makes only \$2 million a year net.

Mr. Reville: Did I hear some anger and frustration in your voice when you first appeared?

Mr. Agnew: Somewhat. That could have been because it was eleven o'clock in the morning.

Mr. Reville: Are you aware that the government set up this select committee?

Mr. Agnew: Yes.

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Mr. Reville: Are you also aware that the Progressive Conservatives took their task force out on the road and, to their surprise, discovered a lot of groups that really opposed Sunday shopping? I just want to make sure you understand what we are trying to deal with here. The comments of members of this committee reflect a feeling that the government is trying to avoid the issue by having this committee. Do you understand that?

Mr. Agnew: Yes.

Mr. Reville: Good.

One of your substantive recommendations is interesting because a similar recommendation was made by the Retail Council of Canada, that maybe this committee should do a major attitude survey. I do not know how a legislative committee does that. We would have to commission such a thing. It might be the best way to go, actually. The notion of a referendum is also an interesting one. Everybody has particular views on how you ask the question.

You have suggested that one way to deal with it would be to have everything open or everything shut. If the committee decided to go in the everything shut direction, what would you do about all those who currently are allowed to be open under this hocus-pocus legislation we have now?

Mr. Agnew: Frankly, I do not have the foggiest idea.

Mr. Reville: You say tough luck.

Mr. Agnew: Presumably, you have to have X number of drug stores open. You have to have a few situations like that. Certain municipalities have rolling gas stations, blah, blah, blah. I think the issue ends up being that you cannot roll it back.

Mr. Reville: So you can only roll it forward. If you were going in any direction, it would have to be towards more shopping rather than less?

Mr. Agnew: Of course, because the whole argument is there are stores open on Sundays and people are shopping in them. The people who are opening and running those stores want to continue to open those stores, but they do not want any more competition. That is the whole crux of the argument. If they were not doing any business on Sunday, they would be closed.

Mr. Reville: I think you are right. Probably the only direction we can go is more. I do not think you can roll it back.

I am interested in one of your suggestions. It is difficult for us here at the top of the pyramid to make these decisions--perhaps I would dispute that we are at the top of the pyramid. Really municipalities should decide, but that is not the advice we have had from some other deputations. Can you elaborate on that a touch for us, please?

Mr. Agnew: I suppose the only reason we recommend it as an alternative that seems viable is because of the two constituencies where we are currently operating. That is basically what they ended up doing about it. In the case of British Columbia as an example, one major municipality, West Vancouver, did not open when most of the municipalities did. It was only late last year that it kicked in with Sunday buying, holding almost a referendum.

Mr. Reville: You are aware of the amazing success that Metro Toronto has had in dealing with this issue. Out of 11 years since the legislation has been in place, in five of those years bylaws were passed creating yet another absurd exemption. It started with Mirvish Village, large hotels, Chinatown west, CN Tower, bait stores--

Mr. Agnew: Very important.

Mr. Reville: Harbourfront stores of 5,005 square feet or less and handmade furniture at Highway 48 and Steeles. Does that make any sense to you?

Mr. Agnew: I guess it makes sense that lobbying pays off. I am not sure what other sense it makes. Maybe that is our mistake, not going in there whining and whimpering and getting what we want. When we look at it from our perspective, we have a major competitor across Canada and in this market, that is, Eaton's. The fact that the Eaton Centre is not considered a tourist attraction in this city is just mind-boggling.

Mr. Reville: It sure is.

Mr. Agnew: I suppose as a citizen, you have to scratch your head and say, "What are these people thinking about?" This could be considered the best tourist attraction in North America possibly, but that is another story. Certainly, in a shopping context there is nothing in North America to compare with it. That is a competitor and we recommend it be open.

Mr. Reville: Do you not think that Citizens for Public Justice, the People for Sunday Association of Canada and the Reform Christian Business and Professional Association are going to go and beat on the city hall politicians? How are they going to decide?

Mr. Agnew: They are going to beat on the politicians and they are going to beat on you. You have to decide what is realistic and valid regardless of who is beating on you. I suppose you get paid to get beat on one way or another.

Mr. Reville: That is right.

Mr. Philip: Not all that well though.

Mr. Reville: We get beat on well though.

Mr. Agnew: I think the government's responsibility, not necessarily the government with a capital G, is to look at the facts of our economy and to make the best decision based not simply on the economic factors but also on all the other facts that are tabled, and to ensure that this province is doing what it should be doing in the light of the time, where we are and what has happened. I think the points being made by the different associations are somewhat ill-founded. We are not forcing anybody to do anything. We do not believe Sunday shopping disrupts anybody's lifestyle. If you do not want to go outside the house and you want to sit in your pajamas all day long and do something with the family, so be it.



Mr. Reville: Right.

Mr. Agnew: The fact that the mall is open is irrelevant.

Mr. Reville: I have one question that is not often asked. I want to see what you say about it.

Mr. Chairman: Is that your last one, Mr. Reville?

Mr. Reville: Yes, I was very patient through Mr. Philip.

Mr. Philip: I am listening to hear what this question is.

Mr. Guindon: So are we.

Mr. Philip: I do not very often hear an original question in committee, so I am all ears.

Mr. Reville: What about the neighbourhood impact question? I have a shopping area in my riding that cannot understand why it is not allowed to open. It is Chinatown east. They know Chinatown west is open. They cannot figure out why they are not able to open. It abuts a residential neighbourhood. Those stores that are open on Sunday, some of them illegally, attract folks who want to shop. They park on people's front lawns, all up and down the residential street. People get really ticked off about that. If the shopping district were not open on Sunday, they think those cars would not be parking on their lawns. This is not an issue for the Eaton Centre or for your store at Yonge and Bloor, but it certainly is for the commercial strips throughout any city that have residential either above or abutting. Do you have any comment on that, whether you need some time to sort of get your newspaper out and--

Mr. Agnew: I think that is the issue, why it tends to make more sense the lower you can push the decision. There are issues such as that which are valid in your context and invalid if you take another municipality that does not quite have that problem or possibly does not have it all.

Mr. Reville: Yes.

Mr. Agnew: That is why it is very difficult in our judgement. We run a big company. If you keep looking down from the top with spy glasses on, sooner or later we will be out of business because we will not know what the people in hamlets want. You better know because trying to run it from Toronto and assuming everything that is true here is true there is wrong. That is why we believe the lower level is possible. Maybe you have to put in some guidelines and rules, so that you do not get absurdities, crazy things that end you up in court trying to defend it in some situation, and let the rules apply at the local level. We do not really see any other way around it, if you want to know the truth.

Mr. Ward: I was interested in your opening comments. I think the point is well taken with regard to whether these hearings are necessary. We have heard many presentations with regard to the inequities and ambiguities in the act as it exists today. I do not think those have been addressed. I do not say that as any criticism because I think the report that was done was a good effort, but it left a lot of questions unanswered.

I want to return to the point and thrust of your opinion, representing a

very large retailer, on the whole issue of removing the entire regulatory framework as it relates to store hours. That might be fine coming from a representative of the largest and perhaps the fittest of the species, but having gone through this debate locally with the local option that now is in Hamilton-Wentworth, my own experience has been overwhelmingly that the resistance to complete deregulation has come primarily from the retailers. To me it seems rather inconsistent that The Bay and Eaton's think it is fine to remove the regulatory framework, and yet overwhelmingly, the balance of the retailers want a framework because they believe the only thing that can come without it is higher costs.

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Mr. Agnew: On any issue, you have a split opinion. The only reason a retailer would resist it is that he basically does not believe he is going to get more business in seven days. If he believed he would, he would open.

Mr. Ward: But that is the entire point. Across the spectrum, retailers are convinced that is going to happen. We have to look after the interests of that constituency every bit as much as the constituency you represent.

Mr. Agnew: My point is they are in a position to get information from the Retail Council of Canada on businesses similar to their own that are open in different municipalities to see whether it is valid or not valid to run a lumber yard or whatever on a Sunday. We go back to the point that if in your riding the number of people who are against it is overwhelming, then I suggest it does not open.

Mr. Ward: I go back to the experience in Hamilton-Wentworth. That is not a small constituency in any way. Getting back to this local option that you appear to endorse, the neighbouring municipality, the city of Burlington, extended its store hours from Monday to Thursday. I am sure that the impact on The Bay in Hamilton, as it was on other retailers, was a 30 per cent loss in sales. That in itself, even from your experience, would have to indicate some need for a regulatory framework.

Mr. Agnew: You cannot convince me of that. The reason they took a sales decrease was that they were not offering consumers what they wanted and the consumers drove over the line or whatever to get what they wanted when they wanted it. That is what happens.

Mr. Ward: They could not offer what the consumer wanted because one municipality chose to exercise a local option that another did not.

Mr. Agnew: Then it is up to that municipality to listen to the people who are getting burned at the cash register.

Mr. Ward: You prefer a local option to a consistent approach throughout the province.

Mr. Agnew: I do not know how you are going to have a consistent approach. You could have a provincial consistent approach by throwing the thing wide open, which I sense you are not prepared to do, but the minute you start putting caveats in, you start knocking certain situations. You take, say, the parking-on-the-lawn issue and make that a big issue for the Eaton Centre. There is no other way of doing it. If you do a universal law or restriction because you cannot take into effect all these quirks and

situations that exist, regardless of the constituency.

The guidelines can be provincial. Possibly, they should be on issues such as people working on Sundays and that kind of stuff, as brought up by Mr. Philip. Pass a law that it is totally illegal to penalize, criticize, blah, blah, blah, any employee so he cannot be made to work on a Sunday. To me, that is valid. That protects the worker. It does not fool around with the economics of the situation. If you have any other concerns, you pass those that can be universally applied. Where you are in a stickhandling-around-the-net situation, the provincial government looking at it will get absolutely nowhere.

Mr. Ward: Save and except that in the correspondence I have received--some of them represent fairly large retailers such as Canadian Tire Corp.--the concern has been that under the existing legislation all the exemptions and ambiguities are totally distorting the marketplace, yet they are not endorsing an extension of Sunday shopping. They just want to get on the same playing field. I would be interested in knowing, from your experience in Alberta and British Columbia, whether there are any authoritative impact studies of what has taken place generally with regard to Sunday shopping.

Mr. Agnew: We have requested the BC government to give us its data on sales tax. As you know, Alberta does not have any, so we cannot get any input. We have a request to the BC government to kick out its data from the commencement of Sunday shopping to see what has happened to its sales tax revenues across the spectrum, which is a better barometer for you than what my sales go up or down, because there can be variations that are market-driven rather than universal.

Mr. Shymko: Mr. Agnew, I want to comment briefly on your less-than-timid remarks about the chairman and those of us who criticize the select committee. From my perspective, I object to the setting up of an all-party select committee that would be used as a stamp of approval of a one-party task force report to justify the Liberal government's change of policy. This is what I am trying to say.

Mr. Bernier: A lack of leadership.

Mr. Shymko: The first day we met, we discussed the so-called Tory task force report, which is fundamental as the base start for this committee. That has been my concern and I think you will share that view. If this committee is to be used simply to listen to a rehashing of presentations and as a stamp of approval or Papal bull or imprimatur or whatever you want to state--

Mr. Agnew: I like Papal bull, actually.

Mr. Shymko: Papal bull may be more appropriate. That is the reason we have reservations.

My first question is on a very important point you made: You are disputing unsubstantiated claims often made by lobby groups or interest groups before this committee. That is my concern. It is my concern when submissions are made saying that prices will increase, taxes will increase and there will be family breakdowns. Unless we have a major study and facts to substantiate it, I have problems. This is why we have urged, and I hope you will agree, that it would have been wiser for us to have commissioned a detailed study to see whether some of these claims are really backed by facts, instead of rehashing it. This has not been done.



The submission we had from the Retail Council of Canada said that it had done research on the area and it said there is very little to measure. You need a study. As they said, you have to study other jurisdictions in Canada, in the United States and in the world, and make a study of the retail trade, the consumer impact of such legislation and so on. Do you agree that approach would have made much more sense and that the government should be doing it rather than you? You have indicated, "We might do it ourselves."

Mr. Agnew: We are actively looking at it. As a matter of fact, we have had quite a few preliminary discussions on how broad it would be: Do we do a national one? Do we do it just in Ontario? Do we do it in British Columbia as an example to get some benchmark data to see what happens? The thing is, to do a major study that will be valid for this committee, you are talking about \$100,000.

Mr. Shymko: But why should you do that?

Mr. Agnew: That is a good point. Why am I going to spend \$100,000 when it is not my responsibility to do it?

Mr. Shymko: Exactly. Those who want to implement a change in the law or have whatever amendments to an act passed--the government should be doing it. There is \$919 million in the coffers of the Treasurer (Mr. Nixon). Here is an issue I am sure we could cover.

Mr. Agnew: Listen, we have the questionnaire all worked out. I will turn it over to you for nothing.

Mr. Shymko: I think you probably share the concerns we have.

Ms. E. J. Smith: They vary from day to day.

Mr. Agnew: I do not know whether I want to agree with that.

Mr. Shymko: Qualified support, and I think at least an understanding.

You have mentioned certain facts and figures you have in your operations in Alberta and British Columbia. You mentioned the 11 per cent minimum expansion of sales versus the eight per cent of time. You say new jobs have been created. Are the workers you have employed paid time and a half or double time when they work on Sunday? Is there some kind of commission?

Mr. Agnew: Full-time employees pick up about an hour-and-a-half premium on that day. They are paid for a day, but they work only six hours. They get paid for seven and a half hours and they work six.

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Mr. Shymko: So there is an incentive for them to work on Sunday. What is the percentage of all the Bay stores in Canada that now are open? BC and Quebec?

Mr. Agnew: No, just BC and Alberta.

Mr. Shymko: Would it be 10 per cent, 20 per cent?

Mr. Agnew: About 18 per cent.

Mr. Shymko: Most of your stores are here in Ontario then.

Mr. Agnew: They are pretty well distributed. There are an awful lot of stores. There are 31 of our 70 stores in--

Mr. Shymko: Ontario.

Mr. Agnew: It is 31 out of 86.

Mr. Shymko: About 40 per cent of your stores are in Ontario, so what will be done will be important at least to your major chain.

Mr. Agnew: It is critical.

Mr. Shymko: My understanding of your position is that you either go all the way and open it up to all retailers or close down the legislation for Sunday shopping.

Mr. Agnew: Yes. There was one interesting point that was made by the task force that really surprised me. One of the recommendations was that maybe we should open three Sundays before Christmas. Philosophically, that blew me away. After spending all the report stating what a damaging thing this was going to be and the place was going to hell in a handbasket, for three Sundays before Christmas we should open it up.

Ms. E. J. Smith: Sounds like Christianity.

Mr. Agnew: That is right.

Mr. Shymko: Your basic premise is that selective justice is injustice--

Mr. Agnew: Of course it is injustice.

Mr. Shymko: --and qualified equality is basically inequality.

Mr. Agnew: Right. I could not have put it better myself.

Mr. Shymko: Are you happy with BC?

Mr. Agnew: We are delighted with BC.

Mr. Shymko: You are delighted with BC. You know that the BC option or the BC approach is to let the municipalities decide. Do you not see this as a selective approach that really contradicts your aspect or principle of selective--

Mr. Agnew: No, I do not think it is selective. If a municipality says it is not going to have any Sunday shopping and it closes the drug stores and the convenience stores and everything else, fine. We do not have a problem with that.

Mr. Shymko: Basically, that is selective justice--

Mr. Agnew: No.

Mr. Shymko: --because you say some will open. You would leave it up to the municipalities. You think that is unfair.

Mr. Agnew: We do not think that way at all. As a matter of fact, there could be some situations where a municipality might say it was going to open the stores and we might elect not to open.

Mr. Shymko: Would you recommend the government of Ontario allow the municipality to decide, sort of as a cop-out, a pass the buck to the municipalities and you come out clean, smelling like roses?

Mr. Agnew: I do not think it is passing the buck. The first thing we would recommend is (a) open up the stores, and (b) if you cannot get your head around that, give it to the municipalities. I do not think that is passing the buck. If you do not make a universal rule, you will have more trouble than you will know what to do with.

Mr. Shymko: We know where it will be heading.

Mr. Barlow: I will be brief because I think everything I would like to say and ask has been said and asked, except that I would like to elaborate on a few points. One is on turning it over to municipalities. Like many other members in this room, I have served on municipal council in the past. Any time the local option was left up to the municipalities, we always took the attitude, "They are dumping it on us to satisfy their problems." I hope we will have the Association of Municipalities of Ontario in to see us before these hearings are complete to get an update on that opinion. That was always the opinion when I was on the Galt and Cambridge city councils. "If the province turns it over to us, it is just copping out and it wants us to make the decision."

I think you will find that is the case in many municipalities, particularly municipalities outside Metropolitan Toronto. I made the comment yesterday that it might come as a shock to a lot of people, but there are municipalities in Ontario other than Toronto.

Sunday opening was really not a big problem in Cambridge until this past November when a couple of the grocery stores and then department stores started to open, challenging the law. When the grocery stores started opening in Cambridge--A&P first and then Miracle Mart--Zehrs workers actually went out and picketed the stores. "We do not want to work on Sunday." It was coming to a point where they felt they were going to be forced into it. These are not questions.

Mr. Agnew: On that point though, the grocery industry is a little different from the department store industry because most grocery operations--correct me if I am wrong--are usually under a collective agreement. In the case of Loblaws stores, for example, their collective agreement says that if they open another day, it is the current employees who work the overtime. In other words, they are not allowed to hire more people or different people to work on that seventh day. You are right. They are caught in somewhat of a trap.

Mr. Barlow: Like Mr. Ward was saying, at the time when it was starting to become active the people who were contacting me were the small independents or franchisers. There was a big lobby within Canadian Tire. They were very concerned about being forced to open if everybody else was open. That is what is going to happen.

Mr. Agnew: Probably saving their money to buy out the company.



Mr. Barlow: Yes, I guess they were at that point. However, that decision has since been made for them. But it is also the shoe stores, the dress shops, the specialty shops in downtowns and in malls for that matter. It is the independents, who are in malls that really, from my reading of the issue, are the ones that do not want to be forced into opening on Sunday. That is what would happen if the Bays and the Eatons of this world were to open on Sunday. The small independents would be forced into it.

Mr. Agnew: I think this committee should request that the Cadillac Fairviews of this world come in and talk to you about shopping malls and tell you what their experience has been with independents.

Mr. Barlow: That is a very good point.

Mr. Agnew: They will tell you what happened.

Mr. Barlow: We are into this committee, whether we wanted to be or not. Mr. Peterson brought this committee on to us, and we are into it now and have to continue.

Mr. Shymko: For some mysterious reason.

Mr. Barlow: Yes, for some mysterious reason. You are right. The money that is being spent on this committee, much of it could be spent on a proper survey and use that as a basis for a task force report. It was the only thing we had to go with.

I do have one question. Did you know the task force was ongoing last year and did you make a submission?

Mr. Agnew: No, we did not know about it last year.

Mr. Barlow: You were not aware of it.

Mr. Agnew: Frankly, until the issue got hot and heavy in December, it had not been an issue with us. We had silently sucked our thumb, if you will. Then when the grocery chains started to open up wide, it changed.

Ms. E. J. Smith: Unlike some of the others, I am finding these sittings very helpful and your presentation very thought provoking in many areas.

Mr. Barlow: You are the whip. You can do that.

Ms. E. J. Smith: I am finding it helpful. The rest of you can go to lunch. One of the points that you brought out, and I certainly agree with you, is that some businesses would probably be expanding their market and getting people to spend what they would not spend. The reason we are getting different points of view would be that it is true in your business where you are nonessentials, and probably not true in the grocery business where you eat the same That may bring two very different points of view.

Mr. Agnew: I would think that is true. Where you are into a staple replenishment system and you use 12 quarts of milk a week, Sunday shopping is not going to make people buy 18 quarts a week.

Ms. E. J. Smith: Or day-to-day shoes versus fancy pumps.

Mr. Agnew: But there is an awful difference, as you are not aware, in normal mall or department store shopping, where 50 per cent of purchasing is still impulse. You could probably agree with that.

Ms. E. J. Smith: I do most of my shopping on holidays, so that is about the same.

Mr. Agnew: And you come back with a big sombrero and wonder why.

Ms. E. J. Smith: Right.

There are a couple of areas you have not touched on because they are not directly yours, but because of your background I would be interested in your reaction. It has partly come up through your saying "Get Cadillac Fairview." I agree with that. What would be your opinion on the fact that a store is forced to open in a mall? Why should that not be a local option to a store?

Mr. Agnew: That is part of the legislative question that is in front of you. If that is a concern, where people are forced to do things--because we are not advocating forcing anybody to do anything--possibly it is a legal option of the provincial government to say, "Within the caveat of seven days, you cannot make people work and you cannot, under any lease arrangement, force a store to open on Sunday if it does not want to."

Ms. E. J. Smith: Or even on Saturday if the owners are Seventh Day Adventists.

Mr. Agnew: Fair bear.

Ms. E. J. Smith: My major concern, and you have touched on it with your own employees, is with the employees. As you know, it is often mothers, families, etc. I think in a store the size of The Bay and any of the major stores, this can be controlled and can be fairly handled. I am wondering if in the smaller stores with more full-time employees whether it would be more difficult to control this, whether it is even possible to prevent abuse of the employees in the smaller stores. What are your views on that?

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Mr. Agnew: I do not really see abuse as an issue. Even in smaller stores, and I cannot give you factual information, but our guess is that they are still operating those stores with 50 per cent of their staff part-time. Primarily by virtue of the fact that they are open 12 hours a day, six days a week, there is no way a full-time complement can cover that configuration, unless employees are going to work 12 hours a day, which they do not do.

Ms. E. J. Smith: The variety stores have it. Bookstores and places like Harbourfront's little stores are not 12 hours a day.

Mr. Agnew: That is not the case in Harbourfront, but in the case of Ed Borins, he is open to 10 o'clock or 11 o'clock every night. You cannot cover that with the full-time employees. You have to have other people coming and working. The retail trade is a major employer of youth and students. It is a big employer.

Ms. E. J. Smith: Do you have any figures on single women versus students, or is that once again information we--

Mr. Agnew: I can certainly get back to you with a statistical breakout of what it is.

Mr. Shymko: Good idea.

Mr. Agnew: There is no problem doing that.

Mr. Shymko: Very good point.

Mr. Agnew: We employ a lot of students for a lot of reasons. One, they want part-time work only. They want to work at night, after their classes are over, or whatever. They want to work Saturdays and Sundays because that is when they have the opportunity to do so.

More important, one of the other benefits of working at The Bay or Simpsons on a regular basis when they are going to high school or college is it gives them a lot of experience in terms of re-entering the work force. They have some retail experience. If they want to get on a management program at Dylex or whatever the case may be, they have some experience. It is very difficult for students to be employed. You can count on one hand where they are going to get employed. Retail is one place and probably the fast-food business is the other. From then on, you have to have experience and expertise.

We are a major employer. We are also a major employer of women. The bulk of the part-time workers in Canada are women. As a matter of fact, 70.4 per cent of them are women. Of the total 731,000 people working, 40 per cent only want to work part-time for all sorts of reasons. The other argument is that about 400,000 would like full-time work and either cannot get it or whatever the case may be, but the preponderance is women.

Ms. E. J. Smith: I appreciate your assistance. I have to make one final, somewhat cynical, comment so that you have an opportunity to reply to it. From what we have heard, and even from your own remarks, I gather that municipal option eventually becomes total opening. Therefore, logically it would be your second option because in the end it would become totally open.

Mr. Agnew: Yes, we believe in the domino effect. Sure. I would not kid you. You do not have to be cynical with me.

Ms. E. J. Smith: Okay.

Mr. Chairmen: Thank you, Mrs. Smith. We still have Sargent, Smith and Bernier on the list. Does everybody wish to go ahead?

Mr. Sargent: I will be about 30 seconds.

Mr. Agnew, after many years in committee I have never heard a better presentation than you made today.

Mr. Agnew: Thank you.

Mr. Sargent: It was gutsy and knowledgeable.

Mr. Shymko: Perhaps he will take you out for lunch, Eddie, for the compliment.

Mr. Agnew: Maybe.



Mr. Sargent: No matter where you travel in the world, and I travel quite a bit, Toronto is known as a world-class city. Everybody talks about Toronto, Canada. It is totally absurd when we have the greatest showplace in the Eaton Centre and your stores, The Bay and Simpsons, new stores which are simply beautiful--the marketplace should be a main factor. It should be wide open in Toronto because we are spending millions of dollars on tourism and ads in American publications: "Come to Toronto. Come to Ontario." They come here and the stores are all closed in Toronto on Sunday. It is ridiculous and stupid.

I think your recommendation that we have enabling legislation by the municipality is only sense because that is where the buck is and all business is local. Each municipality should have its own autonomy to make decisions on things like this.

Mr. D. W. Smith: Mr. Agnew, you made the comment that 50 per cent of buying is impulse buying. Is that a hard and fast statistic all over Canada?

Mr. Agnew: Pretty well. In destination stores, such as furniture stores and that kind of thing, you do not get a lot of impulse buying of chesterfields, but where you are looking at a broad range of merchandise mixed through shopping malls and that kind of stuff, that generally holds up.

Ms. E. J. Smith: That would exclude food I assume.

Mr. Agnew: I do not know what the statistic is on food. There is a lot more impulse buying in grocery stores than possibly people like to think there is. You know the old consumer columns: make a list, check the price and find out if it is naughty or nice, you know what I mean. People start buying anchovy paste and are not sure why after they have bought it.

Mr. D. W. Smith: If the government does pass the legislation that you would like or you require to be open on Sunday, will you be lobbying Metro council to have the Bloor and Yonge area a designated tourist area to achieve what you wish to achieve, or do you think you can gain that from Metro council?

Mr. Agnew: I suppose we could make a case that Yorkville and the Eaton Centre are tourist areas. The Chinese water torture is okay, but we are in business to sell pantyhose; we are not in the business of lobbying governments and making presentations. That is not our business. We want the government to do that--that is all--and do it solid, once and for all. I mean we can cherry-pick away at it, but it is a very laborious, expensive, time-wasting process, if you want to know the truth.

Mr. D. W. Smith: You are making your presentation here and making your--

Mr. Agnew: We are coming out with all guns blazing because you people will solve the problem for us.

Mr. Bernier: If I may wind up, Mr. Chairman--

Mr. Chairman: There is one more after you, Mr. Guindon.

Mr. Bernier: I appreciated and welcomed your presentation. I like that right-wing kind of thrust that you have come forward with. Speaking as one who has been in competition with the Hudson Bay stores of northern Ontario--and my family has been that for over 40 years--I do not sense the

aggressiveness in the northern Hudson Bay stores that you have displayed here this morning with regard to closing.

They close two days a week now in many of the northern Ontario communities, Sunday and Monday. They even go so far as to close when a prominent resident passes away. The stores close for an hour or two as the funeral is taking place. There is not the aggressiveness in the northern stores, but I suspect you are not talking for the northern stores.

Mr. Agnew: No, we are not talking about those. I leave that up to Peter Newman to talk about.

Mr. Bernier: Okay, fine. That is a new purchaser.

Mr. Agnew: That is right. He has a new book coming out, so we can duck again.

Mr. Bernier: Many of my questions have already been asked, but I want to ask one more. You want a universal approach to this whole issue of closed or open or some rules that are common to everybody. If this committee suggested certain hours of operation on Sunday for everybody, what would be the minimum number of hours you could operate on a Sunday, economically, efficiently, for the consumer?

Mr. Agnew: A minimum of five.

Mr. Bernier: That would be the minimum?

Mr. Agnew: We would like to see six. We could see 12 to six. That is better than five.

Mr. Bernier: That would satisfy the churches.

Mr. Agnew: You get it any less than that, to crank up the machine and get it going for four hours or something is a whole other--

Mr. Bernier: Yes.

Mr. Guindon: Mr. Agnew, you represent part of the business community that has the tail wind at its back. You just about have the God-given right of making five points every year for your shareholders.

Mr. Agnew: God, I wish. That is not what--

Mr. Guindon: It certainly seems that way anyway. What I would like to ask you is, because you often interjected saying you want everything fair, either by closing everybody or leaving everybody open, if we were to lean your way and open up, what happens to the business community that does not have the famous tail wind at its back? I am talking about the shoe store or the furniture store you spoke about a minute ago. It is a smaller operation that would have a hard time making it if it was open on Sunday. Even if it was, it would not get a big clientele because the attraction would be at your store. Where is the fairness for that group?

Mr. Agnew: Fairness is an overall question of fairness. The idea that The Bay is going to impact on the shoe sales of a store on Avenue Road at Highway 401 just does not happen. They serve a certain segment of society at a certain time for a specific situation. Maybe their marketing differential is

service. It is not necessarily hours of business. A lot of these stores are open because of the products they carry, the marketing ideas they have or the service they give that we do not. All these factors determine how well somebody does it; it is not just a question of hours of work.

We do not believe we are more profitable than they are. As a matter of fact, I can make a great case for the fact that the small independent retailers are far more profitable than the big ones. That is probably statistically provable. The issue is that it is not the independents. Without question, they own the lion's share of the retail trade today, period. It has been growing steadily since about 1965. The market share of department stores has declined. It is not the other way around. The tail wind is not at our back.

Ms. E. J. Smith: Credit cards changed it a lot, did they not?

Mr. Agnew: All sorts of things changed it a lot. You are right. All of a sudden, Visa cards came out. We had that competitive advantage and we gave credit. Visa came out and, all of a sudden, every store in the country had credit. It certainly changed the marketing dynamics. We made what may be classic errors. We built shopping malls. We built 300 competitors right in the middle. That was really smart, but that is history. The question is--

Mr. Philip: If you had not built them, somebody else would have.

Mr. Agnew: If we had not anchored them, there would not have been much of a centre.

Ms. E. J. Smith: You are doing still it.

Mr. Agnew: Yes, but we are doing it a little differently from the way we used to. At least now we own the centre. At least we get the rent.

Ms. E. J. Smith: Yes, that is right.

Mr. Agnew: These are the issues that are overstated. In some cases, you are totally correct. Maybe he cannot stay in business, but I do not think that in itself is a good enough reason. You have to compete in the marketplace. If you want to be in the retail business, then get in the game and play it. You will be successful if you know what you are doing, and you will not be if you do not. Queen's Quay is a great example. That was not a government project. Can you believe that thing actually being open?

Interjection: The old warehouse.

Mr. Agnew: I think it is great that it is open. It is great that the antique market is open. Having spent three years in Vancouver when it was not open, it was still a nice place to live, but it would sure be a lot better on Sundays in Vancouver to be able to shop if you wanted to. I could bring you in film footage showing you the people thundering through these places on a Sunday where you do not need much of a study.

Specifically, I think the impact of whether The Bay is open on Sunday as compared to an independent shoe store is being overstated--even if he elected not to open.

Mr. Guindon: You mentioned a moment ago, or maybe an hour ago now, that your nine per cent increase in market share in British Columbia could be partly from taking it from the independents.



Mr. Agnew: Some of that could be.

Mr. Guindon: Now whenever we take into consideration this legislation, we have to take into consideration the chambers of commerce which in my area are strictly opposed to Sunday opening.

Mr. Agnew: A lot of the discussion on Sunday opening and the economic conclusions drawn, if you really want to know the truth, I do not think are particularly factual. Obviously, a community that has never been open on Sunday does not have any idea of what it can do. That is where it is at a disadvantage.

Getting back to the study, if this study was done and looked at the economic impacts, what might or might not happen, who wins and who loses and all this kind of stuff, is the right way to go because a lot of this is truly speculation. No independents in BC have gone bankrupt as a percentage of who normally go bankrupt because of Sunday shopping compared to Ontario. That has not happened. Presumably, that government can give you all the facts and figures you would need on what has happened over the last two years.

Mr. Chairman: That concludes the questions. Mr. Agnew, thank you very much for your brief. Your remarks have been most informative, educational and even entertaining. We thank you for attending here this afternoon.

Committee members, two o'clock sharp, please. We have four delegations this afternoon. It could be a long afternoon.

The committee adjourned at 12:24 p.m.

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SELECT COMMITTEE ON RETAIL STORE HOURS

RETAIL STORE HOURS

WEDNESDAY, FEBRUARY 18, 1987

Afternoon Sitting



SELECT COMMITTEE ON RETAIL STORE HOURS

CHAIRMAN: O'Connor, T. P. (Oakville PC)

VICE-CHAIRMAN: Guindon, L. B. (Cornwall PC)

Barlow, W. W. (Cambridge PC)

Bernier, L. (Kenora PC)

Morin, G. E. (Carleton East L)

Philip, E. T. (Etobicoke NDP)

Reville, D. (Riverdale NDP)

Sargent, E. C. (Grey-Bruce L)

Shymko, Y. R. (High Park-Swansea PC)

Smith, D. W. (Lambton L)

Smith, E. J. (London South L)

Clerk: Mellor, L.

Clerk pro tem: Deller, D.

Staff:

Richmond, J., Research Officer, Legislative Research Service

Witnesses:

From the Ontario Korean Businessmen's Association:

Kim, J., Executive Officer

Yew, R., Chairman

Kim, S. C., Director

From the Reformed Christian Business and Professional Association:

Kersten, A., Executive Director

From the People for Sunday Association of Canada and the Ontario Committee for the Regulation of Sunday and Holiday Retailing:

Kingdom, L., Executive Director

Individual Presentation:

Cook, T.



STANDING COMMITTEE ON RETAIL STORE HOURS

Wednesday, February 18, 1987

The committee met at 2:09 p.m. in committee room 1.

RETAIL STORE HOURS  
(continued)

Mr. Chairman: I recognize a quorum by members from all parties. We welcome our first delegation of this afternoon as the Ontario Korean Businessmen's Association. I know you have a subgroup of the KBA in most jurisdictions and areas, including in my home town of Oakville. There is a very active KBA there, with whom I have had a lot to do. They are very interested in this issue, as I know you are.

You have been good enough to present us with a written brief. We appreciate that. I would ask your spokesman to introduce the members of your delegation and then go through your brief. You can read it all if you wish, or summarize it. Following that, we might ask some questions. The time you have is 30 minutes, starting now. Welcome.

ONTARIO KOREAN BUSINESSMEN'S ASSOCIATION

Mr. J. Kim: Thank you. I would like to introduce our delegates. Suk Chang Kim is one of the directors of the association. We have Mr. Yew, chairman of the board of directors of the association. My name is Jacob Kim. I am the executive officer of the association. Mr. Shin is the editor of the Ontario Korean Businessmen's Association newsletter, which we publish every week and deliver door to door to our members.

This organization was formed in 1973 to assist Korean immigrants with the establishment and maintenance of their means of livelihood. Today the association has a membership of over 1,600 as participants in every area of Korean communal life, including philanthropic, educational and cultural activities. However, as our name indicates, our main concern was, and remains today, the promotion and strengthening of our business pursuits, which, in the case of 80 per cent of our membership, means the corner variety convenience stores.

The average store of this kind is family owned and run. It remains open seven days a week, very often 24 hours a day. The net income produced is in the neighbourhood of \$35,000 per annum per family. Very often, these businesses are operated by managers who, in turn, involve their families who work towards ownership or equity participation in the business. The rate of business failure among our membership has consistently remained in the area of 1.5 per cent.

The proliferation of the Korean variety store owners in southern Ontario can, I believe, be easily explained. The average Korean immigrant to this country carries with him or her upon arrival small amounts of capital that is accumulated through disposal of assets or is provided by family members. More often than not, he or she owned, operated or participated in a small business venture in the home country.

Because of the mandatory military service, which can last into one's late 20s or early 30s, post-secondary education has usually not been achieved, and very rarely is there fluency in one of Canada's official languages. As such, the professions or service industries are not available for entry. More important, the family unit and its strength remains the single most enduring feature of a Korean society. The family-run business with active participation of both spouses, and very often children, is the backbone of the Korean economy and has been so for generations.

The concept of a husband and wife being separately employed is basically foreign. The corner variety store, with its lower capital requirements with a relatively uncomplicated product line, presents the Korean immigrant with an ideal enterprise for his or her background and temperament.

The work success ratio is extremely high in these businesses, allowing our members to strive for prosperity through that of which they have an abundance: the willingness to work long and hard to achieve results. Finally, the language barrier has not proved to be a major obstacle in this type of business, since the customers do not require a great deal of assistance in product selection, etc.

The results have been very satisfying. Through hard work and perseverance, members of our community now dominate the industry to the point where our membership--which stood at 30 at its inception, grew to 500 by the end of the decade and today stands at over 1,600--today represents over 25 per cent of the small business in Ontario.

While our sons and daughters enter universities and trade schools and our members branch out into other areas of commercial activity, the family-run variety store remains the cornerstone of our community's economy. Perhaps for the reasons outlined above, immigrants from other countries such as China, Vietnam and Pakistan, to name just a few, see the small business enterprise as their first step in the participation in the Canadian economy, their first step up the ladder.

Today in the streets of Toronto and other cities and towns in southern Ontario, stores that have been run by members of our community are now being owned and/or operated by recent immigrants from many different lands. We have every reason to believe, as I am sure you do, that these groups will contribute to Canadian society in much the same way as we believe we have.

The family store, however, faces a severe threat, that being the subject of these hearings: unfettered Sunday store openings. No issue has caused as much concern to our membership as this. Many of our members watched as up to 20 per cent of net income was lost where large chain supermarkets remained open in contravention of the Retail Business Holidays Act during the recent court challenges.

The store area and employee limits set out in the said act are not usually applicable in the case of the variety store. Since these operations are, for the most part, family operated, Sunday required overtime for employees is not an issue. These stores, furthermore, are able to provide the necessities of life, along with drug stores, without the accompanying congestion and disruption of family life that results when giant retailers remain open on Sunday. The higher level of sales generated by our members on Sundays assists them in meeting the challenge of the chain stores and jumbo supermarkets that crop up everywhere and, even without Sunday shopping, threaten the ultimate viability of the family corner store.

The fears of our membership, we believe, are not unfounded. The repeal of Sunday shopping laws in British Columbia and Alberta has, in our view, contributed significantly to the unusually high level of business bankruptcies in these provinces in recent years. In 1986 British Columbia suffered 120 such failures and Alberta, 104, compared to Ontario's 183. When one considers the far greater population and industrial base enjoyed in our province, those figures are startling. While the general decline of those resource-based economies is presumably a key factor in those results, it has been confirmed to us by our sister organizations in western Canada that the variety-convenience store industry has been badly damaged by Sunday openings.

The Supreme Court of Canada has confirmed that Ontario's Retail Business Holidays Act does not infringe upon Ontario's rights under the new Charter of Rights. While the law is imperfect and may require fine-tuning, it is the firm position of our organization--and on this point, we believe we are accurately setting forth the views of the entire Korean community in this province--that the repeal of the Sunday closing laws would provide advantage where it is not required and cause undue damage and hardship to a vast sector of this province's middle class, the small business entrepreneur, who to this day remains the backbone of our economy.

I thank you for allowing us this opportunity to express our views on this vital issue.

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Mr. Shymko: I want to congratulate you for appearing before this committee. You are probably the first organization that addresses at the same time the economic-financial aspect and the aspect of our multicultural society. You address the nature of immigrants, what this country is all about and how it impacts.

You have a value system in your family-oriented foundations that may be different from what we see today in this society of your new homeland, so it is very important to receive such a submission as you have made. We hope others who follow will combine in their briefs this ethnicity, the social and cultural type of value system and the impact it will have.

I have a number of questions to ask you and I hope I will not be cynical in any of my remarks. The first is about the value you attach to the family unit. From what you have told me, I believe that many--the vast majority--of your families have their shops open on Sunday. What percentage of your stores that are family operated are open on Sunday? Would you say 50 per cent, 90 per cent?

Mr. J. Kim: As I stated earlier, 80 per cent of our membership operate corner stores or variety or convenience stores.

Mr. Shymko: Are most of them open?

Mr. J. Kim: Of those, 80 per cent are open on Sundays.

Mr. Shymko: A vast percentage of those you represent in your organization and their families are operating. Is your family destroyed by that? Does this break up the family because they work on Sunday?

Mr. J. Kim: To a certain degree I must admit there are certain difficulties; I would not deny that. However, many times, that is why our



members try to obtain their residence in the same location as their business. In other words, the store is on the main floor and the living area is upstairs. This is the ideal situation that everyone seeks today.

Mr. Shymko: You have not answered my question. We have had witnesses who came here and said, "Do not allow Sunday openings at all, because the minute a family works on Sunday, it will break the family up." I do not share that view; I do not believe in that. I believe there are families that work on Sunday that are very cohesive, very united. That is the answer I thought you would give me. In other words, just because you work on Sunday does not necessarily mean your family will divorce.

Mr. Yew: No. There is one person needed in the operation of the store. The wife and husband share it. On Saturday and Sunday there are some helpers, and they are the kids. The family shares the work. For example, my kids are 22 and 24 years old. They are still at university or in high school. They come into the store. The young kids also look after the store, and one person can stay home. They do not need to go to nursery school. We all share. That way the operation is not so difficult. One person does not operate the business all the time.

Mr. Shymko: Okay, so your problem is not with working on Sunday. Your problem is that competition. When the big stores open, it is going to impact.

Mr. J. Kim: Exactly.

Mr. Shymko: That is the point you are making to us. Working on Sunday does not destroy families.

Mr. J. Kim: Not necessarily.

Mr. Shymko: What will destroy that family is when you are in competition with the big monopolies and the big chains.

Mr. J. Kim: Exactly.

Mr. Shymko: That is a very good point you have made and I thank you for that first question.

My second question is in the area of statistics. The problem we have is that a lot of people assume things. They make general conclusions with no statistics to back them up such as this family question. They say it will break down families but there are no statistics to prove that. You have some statistics that are very interesting. You say that 20 per cent of net income would be lost with Sunday store openings. Is this a survey you have taken throughout Canada or is it in Toronto? That figure you mentioned: I guess it happened when the act was challenged recently.

Mr. J. Kim: Yes.

Mr. Shymko: In other words, when did you get these; in the last year, before Christmas?

Mr. J. Kim: In the latter part of last year. We did a random survey of 100 members and we inquired what kind of sales value droppage had occurred

during this period. It varied, of course, from five per cent to 30 per cent but the average we discovered was 20 per cent.

Mr. Shymko: In the city of Toronto and parts of Ontario, we have tourist-designated areas that are open. Do some of your members have stores in tourist-designated areas?

Mr. S. C. Kim: Yes, we do.

Mr. Shymko: Do some of them experience problems? In a tourist-designated area, everybody is open.

Mr. S. C. Kim: I think the main problem for my membership is big supermarkets. A tourist area--

Mr. Shymko: Chinatown in the city of Toronto.

Mr. S. C. Kim: In Chinatown, they are not the competition to my membership. It is just the problem from the big supermarkets.

Mr. Shymko: Okay.

Mr. S. C. Kim: We sell different products, different goods; it is like a tourist-area store.

Mr. Shymko: In the tourist-designated area in Chinatown, I understand you have a lot of small, family-operated businesses.

Mr. J. Kim: That is right.

Mr. Shymko: That is no problem to you, no problem at all.

Mr. J. Kim: No.

Mr. Shymko: So you support tourist-designated areas? We have some problems with that. We have heard there are problems, that sometimes one side of the street is tourist designated and the other side is not. Do you have some problems about the designation?

Mr. Yew: Not really.

Mr. Shymko: Not now; you have not seen that. The other question that I--

Mr. Chairman: Mr. Shymko, you said one more question. Can I ask you to forgo that one? We will put you to the bottom of the list and if there is time we will come back to you in regard to this. You now have taken some eight minutes and there is a limit.

Mr. Shymko: Have I? All right.

Mr. Sargent: I congratulate the Korean community for coming to us. I associate with many Korean groups and they are extremely fine citizens. We are glad to have you here.

Mr. J. Kim: Thank you, sir.

Mr. Sargent: We hope we can keep you as happy as you are now. How many stores--you say about 1,600--

Mr. J. Kim: Sixteen hundred members.

Mr. Sargent: That is a very meaningful group. There is a lot of clout there.

Mr. J. Kim: Yes.

Mr. Sargent: Would you qualify yourself as being close to a convenience store?

Mr. J. Kim: As I said earlier, 80 per cent of the 1,600 are variety and convenience stores, so you can say they are corner stores or convenience stores, groceries--

Mr. Sargent: You handle staples such as bread and milk?

Mr. J. Kim: Yes, sir.

Mr. Sargent: That is it.

Mr. D. W. Smith: I want to try to find out where your membership is. I come from the riding of Lambton and there are a few stores open on Sunday there, but you never mentioned eastern or northern Ontario. Are you moving away from the large cities now and starting to work into the smaller communities? Have you got any statistics as to what your membership may be in southern Ontario, eastern Ontario or northern Ontario?

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Mr. J. Kim: We have exact numbers on how our members are dispersed. Toronto has approximately 902 or 903. We have a large number of members in St. Catharines, London, Hamilton, Oakville, Oshawa and Halton.

Mr. D. W. Smith: Do you have many yet in communities of, say, 2,000 people or less? You are talking about big cities.

Mr. J. Kim: I cannot say "many," but it is growing.

Mr. D. W. Smith: Mainly in southern Ontario, not eastern or northern Ontario.

Mr. S. C. Kim: We are beginning to expand to the north.

Mr. J. Kim: We are slowly moving to that area.

Mr. Yew: To the north, to Barrie and of course farther north.

Mr. S. C. Kim: We go every place in Ontario where you can find good business. North of Metro Toronto there is too much competition, so we have price wars.

Mr. J. Kim: We have about 25 members in the Barrie region.



Mr. Yew: They have been moving to the camping area or summer cottage area within the last year.

Mr. D. W. Smith: I do not know what legislation is going to pass, what it is going to say or anything like that. Within the legislation, would you like to see the municipality have jurisdiction over Sunday closings or would you sooner have the province legislate and say what it has to be province-wide? How would you like to see that?

Mr. J. Kim: According to our survey, some of the towns in British Columbia left that authority to the municipality and I think it is not really a favour to small business people, as we are. I think more emphasis should be placed on what kind of effect this small business will really have on the economy. We are proud to be in a position to say that our small retailers are the basic foundation of this country's economy. When we start ignoring small business, there is the possibility that a lot of these operators are going to move away from this province; there is no question.

I had a store myself in Alberta for three and a half years and two years ago I just had to pack up and move here. The chain store comes in with Sunday openings and you cannot survive there. If our members see that there is no chance of survival, obviously they have to find a way out of this province and find another area.

Mr. D. W. Smith: It seems as though there is a distinct difference of opinion. The small entrepreneur wants the province to dictate and the large entrepreneur, businessman, huge chain or whatever you want to call it seem to want the municipality to decide.

Mr. J. Kim: Yes.

Mr. D. W. Smith: I am just trying to establish that everybody is thinking along the lines.

Ms. E. J. Smith: You have some figures here and I want to bring them into a little closer context. You mentioned the numbers that went bankrupt or went under, but we do not have a hold there on proportions. How many stores would there be in those provinces compared to Ontario? You said you suffered 120 failures in Alberta compared to 183 in Ontario.

Mr. Shymko: That is not stores; those are general bankruptcies all the time.

Mr. E. J. Smith: No, it is stores.

Mr. J. Kim: Ontario has over 5,900 independent stores compared with Alberta where there are fewer than 2,000. On those numbers, if you compare that, Alberta and British Columbia are extremely high.

Mr. Shymko: I want to be clear what you are saying. Are you saying all those figures are small family-run stores? When you said business bankruptcies, I thought they were all sorts of businesses. You referred to resource-based economies that were a factor and other things.

Ms. E. J. Smith: It is too low for bankruptcies. We have more bankruptcies than that in London.

Mr. Shymko: Are these corner stores?

Mr. J. Kim: Yes, what we call independently owned stores.

Ms. E. J. Smith: You already mentioned, and I got part of an answer to this already, but I think there is another problem here. As these small corner stores become successful, we are now getting chains of small corner stores. You are under risk from that too. In other words, at least to me, it seems that there is a smaller proportion of individual family-owned stores and a larger proportion of Mac's, Harvey's and so on. Now we have 7 Eleven Stores coming in in a big way across the province. Again, it is not the family-owned store. I wonder if we are just postponing the trend of history and the inevitable if we set up something to protect your piece of the territory that is already being threatened. Are you going to be able to withstand the pressure of such groups as 7 Eleven and Mac's anyhow or are they already moving into your territory in such a big way?

Interjection.

Ms. E. J. Smith: Here is an interesting point. Let us try and find out whether this is true.

Mr. Shymko: I would like to know.

Ms. E. J. Smith: Are you talking about stores that you own as families and are running as families or are you talking about working for a chain?

Mr. Shymko: Franchising: Are some of you franchisers like Becker's?

Mr. Yew: No, those are not our members.

Mr. Sargent: But you are members of a group.

Mr. Yew: Some of the Korean people have franchises such as Becker's or Mac's.

Mr. Shymko: You do not represent those?

Mr. Yew: No. They are not qualified as our association members.

Ms. E. J. Smith: We had one other question. The last person who spoke to us before lunch was from The Bay. This gentleman was talking very much about an even playing field, fairness between the big and the small, pointing out that actually the big merchants have lost a tremendous amount of the market and the small people have come up, that the big people are the ones at the greatest risk rather than the small. He had statistics to bear that out and said that we could not afford to pass laws that stated it was the little over the big because the big were already in danger.

Mr. Yew: Most of the people today want to do one-stop shopping. If a big store is open, people move up there--

Mr. Sargent: Your customers.

Mr. Yew: My customers move to the big shopping mall where they can shop for everything.

Mr. S. C. Kim: Just for example, after the Supreme Court ruled on the Retail Business Holidays Act, the next day several of my members increased their sales by maybe 50 per cent or 100 per cent. The Sunday holiday act is very important for our members.

Mr. Sargent: If you lost Sundays, what percentage of your weekly take would you lose?

Mr. J. Kim: We are looking at between 25 per cent to 30 per cent.

Mr. Sargent: Sunday means that much to you.

Mr. J. Kim: Yes.

Mr. Yew: Yes, because most people are off on Sundays. They do not shop very much on Thursday and Friday.

Mr. Sargent: That is discriminatory.

Mr. Chairman: Is that your last question, Ms. Smith?

Ms. E. J. Smith: Yes.

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Mr. Chairman: That completes the questioning, gentlemen. Thank you for your time and your brief. We appreciate it. We will certainly take it into consideration and account when drafting our report.

Next on the list is the Reformed Christian Business and Professional Association. Good afternoon and welcome, Mr. Kersten, the executive director.

Could I ask the previous delegation to step out into the hall to conduct their interviews? Thank you, gentlemen.

Welcome and thank you for providing us with a written brief. As you may know, the procedure is to either read through it or summarize it and let us ask you some questions.

#### REFORMED CHRISTIAN BUSINESS AND PROFESSIONAL ASSOCIATION

Mr. Kersten: Can I direct you first to the very back of the presentation where we have listed our board of directors? With me today is Mr. Henry Sieders of Henry Sieders Funeral Home, who is the secretary of our board of directors.

We want to express our genuine appreciation to the select committee on retail store hours for granting us this opportunity to present a submission on the issue of extended store openings, particularly as it relates to Sunday store openings.

The Reformed Christian Business and Professional Association seeks to serve and represent some 3,000 reformed Christian self-employed business people and professionals throughout Ontario. In addition to our provincial organization, we are structured into 13 regional chapters. Most of our members are first and second-generation immigrants of Dutch extraction who belong to the family of reformed Christian churches; for example, Christian Reformed, Canadian Reformed, Free Reformed, Reformed Church of America and the



Netherlands Reformed Church, and who, committed to the lordship of Christ over all of life, seek to address the challenge of integrating faith and vocation.

While we acknowledge that we live in a pluralistic society in Ontario--we will address this in greater detail later in this submission--we want to state emphatically, unapologetically and unashamedly that our primary motivation for objecting to Sunday store openings is rooted in divine law. We confess our God is not a God of the unreal or the abstract. We believe that our God, who reveals Himself in His word, the Bible, is extremely practical and contemporary. He is concerned about and loves those whom He has created in His own image.

In His word, God tells us He has established a pattern, by divine decree, of six days of work and one day of rest. It is enough for us that He simply demands obedience to His decree. He owes us no explanation. It is because of this divine decree that we reject any Sunday labour except that of necessity and mercy.

As a religious community, we seek to honour God's divine pattern of six and one by coming together as an extended family to engage in worship. We are convinced that by either relaxing or not enforcing the current Ontario laws governing Sunday store openings in Ontario, we fall victim to discrimination. Much worse, we are convinced divine law is violated.

As we stated earlier, we recognize we live in a pluralistic society in Ontario with diverse ethnic, religious and cultural communities. To impose the will of the majority on any minority or the will of any minority on the majority is always unacceptable if it violates our understanding of a free and just society. At the same time, we understand justice, freedom and liberty to mean that the rights of the minority will not be violated.

We do not want to impose our religious beliefs on anyone. At the same time, we want to say that anyone is always welcome to join us. You may disagree vehemently with our foundational religious motivation. Yet in the freedoms guaranteed us in Canada, we can expect respect from each other in light of the diversity of beliefs and motivations that are present.

Accordingly, provisions must not only be made for the sensitivities of Christians who observe Sunday as a holy day, but also for other faith communities who do not observe Sunday as their formal day of worship, such as Jews and Seventh Day Adventists.

We believe it is the task of government, through decisive leadership and action, to ensure a society where justice, liberty and mercy prevail for all. We acknowledge the often difficult challenges you face. Be assured of our prayers on your behalf.

Recognizing that what for us is the primary motivation in objecting to Sunday work may not represent the majority view in Ontario, we respectfully request your consideration of a number of other, very practical reasons why government should guarantee, by means of appropriate legislation, a common day of rest.

We are convinced the cornerstone of a just and healthy society is a strong family unit. We believe that in many ways, Ontario society is a society in crisis. We need not list the litany of symptoms to prove our point. Irrefutable evidence is all around us. It is also true that history has shown

us that when the family unit is in a state of deterioration, society as a whole is adversely affected.

In Ontario, it is often true that both marriage partners, who are also often parents, work outside the home, either because they must to get by financially from day to day or else to secure a lifestyle they desire. This means increased separation of husband and wife and parents and children.

If additional Sunday store openings were allowed, the family unit would face even more separation. During the week, most children attend school. That leaves the weekend for being together as family. Now that the work week has been significantly shortened in terms of hours worked per person, surely we can carry out our commercial activity on Saturday, thereby leaving Sunday as the common day of rest for intensive and quality family time. Please remember that if there are wholesale Sunday store openings, the stores will need to be staffed, often by women and mothers.

Our religious beliefs do not allow us to work on Sunday. For us, as described earlier, that is a divine imperative. If stores are allowed to remain open, what will be required of those employees who cannot work on Sundays because it violates their religious beliefs? Will they be fired?

We want to believe that Canada is a land of freedom and justice where the rights of all are guaranteed. We hold the principle of religious freedoms as absolutely non-negotiable. By encouraging Sunday openings, are we not compromising these religious freedoms and rights? We wonder out loud if this is not a classic case of reverse discrimination.

The stores agitating for Sunday openings promise that current employees will not lose their jobs if they cannot work on Sunday. But what about those seeking employment? Do you think stores will hire individuals who refuse to work on Sunday? We doubt it.

Another matter needs to be addressed. Christian faith communities come together on Sundays for worship. Sunday store openings will tempt some to neglect attending these worship services. The vitality and contributions of a strong church community so necessary to a healthy, vibrant, sensitive and moral society will be threatened. We do not want to believe any Ontario politician is so irresponsible or so insensitive as to adopt a position that is anti-religion, anti-church or anti-family.

The backbone of the Canadian economy is small business. We do not have to tell you that; you know that already. But let us look at the reality of small business. In many small, family-run businesses, one marriage partner is already working 60 to 70 or 80 hours a week for the business to remain financially viable. In many cases, the only relief this individual may have is from his or her marriage partner. The pressures to remain competitive and, at the same time, meet the requirements of payroll, cash flow and the bank are frequently overwhelming.

By allowing Sunday openings, the small business will be under even greater pressure. Either the owner works even more hours, thereby again causing separation of marriage partners and parents and children, or someone else is hired, adding expenses and inexperience to the enterprise that, in many cases, small businesses cannot absorb. Consumers will, therefore, face higher prices and the business will no longer be financially viable or, at best, the small businessperson will experience additional personal stress and fatigue.



It has been proven, from the experience in other places, most recently in Alberta, that Sunday store hours do not mean an increase in consumer spending. The consumer dollar is only so large. In Alberta, expanding total store hours by 10 per cent to 15 per cent, by staying open on Sunday, did not result in any increase in consumer spending.

Finally, again using the Alberta experience, history shows that Sunday store openings mean a work force comprised of a larger number of inexperienced part-time employees, at lower wages with no benefits.

The ones agitating most for Sunday store openings are the absentee landlords of large malls. It is written into many mall leases that if the owners, after receiving the necessary approvals, dictate that the mall stores be open on Sunday, all tenants must comply. We have already listed our concerns about what that will mean for many mall small businesses and their owners. We have two other concerns.

First, we have heard of instances where a mall tenant dared to speak out against expanded store hours or Sunday openings and then had to face the wrath of his or her landlord. Some tenants were threatened with eviction and still others found their rents increased substantially in their next lease, in some cases by as much as double.

Our other concern is that the small business not located in the large mall will either be forced to stay open on Sunday to try to obtain its share of the market or, if small businesses stay closed on Sunday, malls will have a monopoly on retail activity.

History has proven that where a society either allowed or dictated a seven-day work week, it was threatened with extinction. In communist Russia, where leaders tried to dictate a seven-day work week for economic reasons, the experiment proved disastrous and today there is a common day of rest. In Sweden, which is often considered one of the most progressive societies in the free world, there is no Sunday work. Surely there is something to be learned from all this.

As the family is one of the cornerstones of a healthy society, we believe that in order for a democracy to thrive, strong and involved local communities are essential. The more people are involved in local activities, the stronger the community. Where would Canada be if it were not for local people, actively involved in municipal government, school boards, recreation and sports, cultural activities and volunteer work?

Owners of small businesses, not the absentee landlords of large malls, form the backbone of local activities at all levels. By forcing the small business to stay open, you will be taking away from the community a valuable resource. Not only will the small business owner have less time for community activities, but also he or she will simply be too tired to be involved meaningfully in the very few hours that are available.

We note with gratitude that the religious community is not the only one strenuously objecting to expanded store hours and/or Sunday store openings. We are joined in our objections by many members and representatives of the small business community and a wide range of labour and union groups.

It may be argued that the polls indicate that a large percentage of the Ontario population supports Sunday store openings. On the surface, it could be that people will initially support Sunday store openings because they feel it



will give them greater flexibility in their schedules. We wonder, however, what the degree of support will be once they think through all the negative implications.

We are concerned that some--and, we emphasize, a few--people in Ontario are taking the law into their own hands with apparent impunity. We state this when we consider not only the Sunday store opening issue, but also the fact that Dr. Henry Morgentaler and his associates are apparently permitted to break the law of Ontario with police and provincial government approval.

These actions in direct defiance of the laws of Ontario are evidence of creeping anarchy. If, in the opinion of some, a law is bad or unjust, there are proper ways to deal with it within our system. We do not consider breaking the law consistent with being a responsible corporate citizen.

It seems to us, from the outside looking in, that government policy and programs are often initiated in reaction to public opinion polls. It appears that recent polls indicate that the majority of Ontario citizens want the convenience and option of Sunday shopping. Response to a poll, however, is very much determined by the wording of the poll question. We can understand that many citizens would like the option to shop on Sunday, provided they do not have to work on Sunday. We dare to predict that any poll on Sunday shopping would show dramatically different results if it meant the person being polled had to work on Sunday.

We conclude with seven short recommendations.

1. We recommend that the general principle of a common day of rest be maintained in Ontario.

2. We recommend that for historical, religious and practical reasons, all Sundays, including those just prior to Christmas, be designated the common day of rest.

3. We recommend that any new legislation include exemption provisions for all legitimate members of those faith communities which do not recognize Sunday as their holy day.

4. We recommend that only those commercial enterprises which provide an essential service or a service of necessity be permitted to operate on Sunday.

5. We recommend that the term "essential service" or "service of necessity" be clearly defined.

6. We recommend that the Ontario government not adopt a local option policy regarding the uniform store hours in Ontario. Experience has shown that the local option creates many negative feelings among neighbouring communities.

7. We recommend that any commercial enterprise that breaks the law regarding Sunday store openings be fined an amount equivalent to double the total gross sales of the day the violation took place.

That is our presentation, Mr. Chairman.

Mr. Chairman: Thank you very much, especially for the well-researched and well-put-together brief. Questions?

Mr. Ward: I want to thank the delegation for an excellent brief. I

am going to ask you to do something you may find a little difficult, to put aside some of the religious reasons you enunciate well in your brief. That is pretty hard to ask you to do when you are a Christian business association and that is very much what brings you together.

Earlier this morning, we heard some very large corporate representatives on behalf of The Bay making the argument, and it is a traditional and common business argument, that the best situation for any business is an absence of government regulation and that the marketplace dictates everything. My response to them is, and certainly it has been my overwhelming experience, that retailers do not support the extension of shopping hours and of Sunday shopping. They want firm regulation in place.

Do you not see some inconsistency between the typical business approach to matters such as this and what is being endorsed?

Mr. Kersten: First, if I were to speculate on the nature of our membership, I would say that most of them are free enterprisers at heart and believe in a very limited government role. I think, though, that if you sat down and talked with our people, we would distinguish between free enterprise and private enterprise. What we embrace is private enterprise. We reject the extremes that say no government or all government. We are striving for a high middle road.

As much as we would like to see as little government involvement as possible, I think the government has a role to play in providing some leadership. For that reason, for societal reasons, putting aside the religious reasons, if we came only from that corner today, I think we would say, "We are going to be dismissed as a bunch of religious fanatics or radicals." We are concerned about a society that has adopted us and that we have adopted. For that reason, we see the need for decisive, compassionate, just government and a role for that government.

Mr. Ward: To your credit in terms of your recommendations, you have very much tried to put aside that specific perspective and look at it more broadly in terms of the common day of rest. In fact, an argument can be made that if it is pause day we are talking about in terms of the Lord's Day, then it should be Sunday regardless, but that is neither here nor there.

There is one small item, without getting into it at any great length. The difficulty I have, in dealing with responses from constituents and circumstances such as we had just before Christmas when we were awaiting the Supreme Court decision, is the notion that the perception is that people can break the law with impunity. I have some trouble with that.

I think under a fair and open judicial process where you have a situation of 4,000 outstanding charges and you have had the cases go to trial, people have exercised their rights under a fair and open judicial process that very much protects, tries to presume innocence until guilt is proved and tries to protect people's rights, then they do, in fact, have the right to take that to the highest court in the land.

I really have trouble accepting the fact that if those cases and those judicial proceedings are deferred until a decision is rendered on a much broader basic constitutional issue, that is impunity. I do not want to get into a lengthy debate but, in fairness, that has to be recognized as part of the system.

Mr. Kersten: If you look carefully under our item 8, with the help



of the board we included the word "apparent." Too often, perception is reality, and that was our perception.

It is too bad that people have to break the law in order to challenge the system. What has happened, too, even after the Supreme Court ruling came down--we never thought there was any ambiguity in the present legislation, but some people chose to say there was--they continued to stay open on Sunday. That concerns us, because that is not a healthy sign of respect.

Mr. Ward: In fairness, very few of them continued to stay open on Sundays. If you look at the judgements that have taken place since that ruling, even the most visible, such as Magdar, at some point, are saying they are not so sure about staying open if they are going to have to pay that kind of fine. I just wanted to make the point because, even in the other example, it works both ways. The state can appeal the decision of a jury acquittal on the basis that it believes its laws are correct, and a person who is charged and convicted also has that right. I fear very much for the whole system when, because of that appearance or perception, people take a strong position and say, "Throw them in jail; they have broken the law." That is not what our system is built on.

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Mr. Barlow: I agree and echo that it is a good, well-thought-out brief. The vice-president in the delegation that appeared this morning suggested that either everyone should open on Sunday or nobody should open on Sunday. I take it that your preference is for the latter, that nobody open on Sunday, except essential services or services of necessity. How do you define those two?

Mr. Kersten: That is not what we said in recommendation 5.

Mr. Barlow: I saw that, but let us have some advice.

Mr. Kersten: If you went to some hard-liners within our religious community, they would argue that any commercial activity on Sunday is unacceptable. Those of us who are a little bit more moderate recognize the society in which we live and feel perhaps there have to be some exceptions made. We are talking about--and I do not want the list to be exhaustive--corner convenience stores, gas bars and restaurants.

We had a board meeting this morning where we discussed this brief at length. We got into some discussions about the whole area of tourism. I know it is an area of concern for this committee also. I think a very strong consideration can be made that for tourist-related businesses simply to stay in business, they have to operate seven days a week, 12 weeks of the year.

Mr. Barlow: You have also suggested that the local option be taken away. The rules should be set up by the province and every municipality, be it Toronto or Kenora, should operate under the same system.

Mr. Kersten: We feel very strongly about that. You are undoubtedly aware of the sensitivities that existed between Sarnia and Sarnia township. Before moving to Waterdown six years ago, I lived in Kincardine for 13 years. There was tremendous tension between the town of Kincardine and the township of Kincardine with regard to retail activity. I think that would be an easy way for provincial politicians to remove the responsibility from their plate and put it on someone else's plate, but I do not think it would serve the best interest of our province.



Mr. Barlow: As a former municipal politician, I agree. I think it is passing the buck and letting somebody else look after it.

I think you want to move on, Mr. Chairman, so I will reserve any other questions.

Mr. Chairman: Just by way of supplementary to Mr. Barlow's questions on recommendation 5, you speak of essential services and services of necessity. Would you give consideration to services which provide a recreational or amusement factor to the population on the rationale or argument that one of the reasons for a common day of rest is to permit family members to be together, to enjoy each other's company and to enjoy recreational pursuits? There would, therefore, have to be recreational pursuits open to serve that need.

Mr. Kersten: I, as an individual, would reject that because of my religious belief but, in recognition of the society in which we live and to be consistent with our argument about strong family values, I think it naturally follows that recreational and cultural activities should be included.

Mr. Sargent: I say kindly that I admire your sincerity and what you stand for, but I do not think you are living in the real world. Obviously, you are a very successful businessman. I see your group here. You are idealists and you want to see the best things happen to you, your kids and the world, but the things you talk about are not realistic.

We have contracts that were written in malls many years ago. These contracts were written in antiquity. They have these ongoing deals. Now you are talking multibillions of dollars worth of cancelled contracts if you try to upset that. Regarding the group we had here a few minutes ago, it had 1,600 stores. They would have a loss of 30 per cent in their business if they had to close down. I admire you for coming and fighting for what you believe in, but you are even opposed to a local option: to the municipality running its own affairs. I think that is wrong. We should put government back where it belongs. It is amazing to me that democracy works at all.

Everyone in this room is dedicated, and we are amazed that things work at all sometimes. Anybody who hopes to get everything he wants is a dreamer. Tossing this back to the municipalities is one answer, but certainly not depriving all kinds of business people of their right to survive. That is wrong.

Mr. Shymko: You probably listened in to the presentation of the Ontario Korean Businessmen's Association.

Mr. Kersten: Correct.

Mr. Shymko: Your fourth recommendation is for essential service or service of necessity. I imagine they deem their service as one of necessity and an essential service.

Mr. Kersten: I would include that, yes.

Mr. Shymko: Their understanding is that being open on Sunday does not destroy their families. The vast majority of the Korean community in Canada, if not all, are essentially Christian. They did not see this as really destroying the family unit; to the contrary, eliminating that would destroy the family. Maybe you could address whether that is a contradiction of your statements.

Mr. Kersten: I found the answer interesting. I do not want to get into the relative merits or demerits of another presentation. I think their presentation centred on the matter of remaining financially viable. If they can work it out within their family life, more power to them.

From the outside looking in, without being there or knowing their cultural structures, I would find that somewhat difficult. Our argument comes not from the religious point of view but from the best interests of society in general.

Ms. E. J. Smith: I have just one very quick question. In your third point you quoted statistics in Alberta that expanding total store hours by 10 per cent to 15 per cent did not result in any increase in consumer spending.

We had the opposite statement from the gentleman from The Bay this morning, although he did include British Columbia, which made me wonder if Expo 86 entered into it in a considerable way. I wondered what your figures are based on.

Mr. Kersten: We have a sister organization in Alberta, the Christian Labour Association of Alberta, which has been very much involved in this whole matter because the courts struck down the Alberta Lord's Day Act because of its alleged religious bias. The information we quote in this brief comes from them. They went through that. It is restricted to Alberta. I am sorry; I have no figures on British Columbia.

Ms. E. J. Smith: It came from your own brief of that group?

Mr. Kersten: Yes.

Ms. E. J. Smith: If you should be talking to them, ask them where they got the figures, because when you get contradictory figures, it is interesting to know where they came from.

Mr. Chairman: Thank you. Are there any other questions? If not, thank you very much for your time and effort. We appreciate it.

Next we have the People for Sunday Association of Canada, represented by Mr. Kingdon, who will be familiar to a number of us and who will become familiar to the rest of us. I believe Mr. Kingdon or representatives from his association will be attending some or many of our hearings around the province.

I understand Mr. Kingdon is going to address us this afternoon. A brief is being prepared and will be presented at a later date. Again, welcome to this select committee.

In your remarks perhaps you could apprise us of the nature of your organization and the numbers of members and people you are representing here this afternoon.

1510

PEOPLE FOR SUNDAY ASSOCIATION OF CANADA  
ONTARIO COMMITTEE FOR THE REGULATION OF SUNDAY AND HOLIDAY RETAILING

Mr. Kingdon: I am going to speak on behalf of the People for Sunday Association of Canada and on behalf of the Ontario Committee for the Regulation of Sunday and Holiday Retailing. Neither of these organizations is

a Christian organization as such. Rather, they are organizations concerned with the quality of life that befalls those who are forced to work on Sundays.

The reason I do not have a submission ready for you is that we did not get any information about this meeting until Friday of last week, which was too late to do anything about a preparation. We put together a preparation, and it was freely debated at a meeting I have been at all day, up until now, just tidying this up. We will be submitting this to you, together with some reports.

The possible change in attitude of both consumers and retailers since the introduction of the Retail Business Holidays Act in 1975 has been of great concern to us. As the Conservative task force realized, the media have misled the public, largely by opinion polls that are without foundation. We would draw your attention to a poll reported by the Toronto Sun of January 17, 1986, claiming that 65 per cent favoured a more open Sunday. The question asked by the Toronto Sun was, "Would you put any restrictions on large malls, supermarkets, department stores, convenience stores and pharmacies?" At this point, we specifically draw your attention to the inclusion of convenience stores and pharmacies, two areas that are already exempt.

A Gallup poll in December 1986 reported 53 per cent in favour of a more open Sunday. Their question was, "In your opinion, should retail outlets in this area be allowed to sell goods or services on Sunday or not?" We draw to your attention that this question includes services, which are exempt. This was a national poll that included both British Columbia and Alberta, where some 60 per cent of the retail outlets are open in accordance with the law. Even with the weight of British Columbia and Alberta, only 53 per cent wanted the stores open.

Neither of these polls posed the important question, "Would you be willing to work on Sunday?" The Conservative task force found that when this question was added, there was a dramatic change in the response, resulting in approximately 90 per cent being opposed to Sunday retailing. In February and March 1986 our organization conducted a postcard poll that brought a response of 112,128 cards, with 109,676, or 97.8 per cent, being opposed to additional stores being open on Sundays and holidays and 2,452, or 2.2 per cent, willing to work and wanting all stores open on Sundays and holidays.

Most of these responses originated from cards dropped into shopping bags or available on retail store counters. We draw your attention to the questions asked in this poll, which, in our opinion, provide the choice of two alternatives, assuring a more meaningful expression of public opinion. We would also advise you that in recent polls in Barrie and Midland, where the alternatives were provided, over 90 per cent were opposed to holiday retailing.

It is rather interesting that the media and various polling organizations have totally ignored the opinion of retailers. It is much more surprising when one considers that polls by the Canadian Retail Hardware Association, the Canadian Shoe Retailers' Association Inc., the Lumber and Building Materials Association of Ontario, the Ontario Automobile Dealers Association and countless businessmen's associations' polls of their memberships have reported, on average, over 90 per cent being opposed to Sunday shopping.

We believe the will of the consumer and the business community has been clearly established. It is not necessary to address the economic, sociological or legislative issues, but these were all considered in the Supreme Court of



Canada decision of December 18, 1986. Chief Justice Brian Dickson has aptly expressed the case for the government-enforced limits on Sunday shopping: "The desirability of enabling parents to have their regular days off from work," he has written, "in common with their child's day off from school and with the day off enjoyed by most other family and community members is self-evident."

The arguments by the crown in the Supreme Court action were virtually a restatement of the Ontario Law Reform Commission of 1970 on Sunday observance legislation. This report followed six years of study. It is interesting that, to read this report today, the fundamental issues remain the same. The problem is that the Scott laws have found means of evading the law and which can be addressed by amendments. It is our understanding that the bill had first reading with respect to an amendment to the Employment Standards Act and to have provision for an application to the Solicitor General for the granting of an injunction. We presume that this bill will not proceed and that the select committee on retail store hours will consider these subjects.

Our organizations have been very involved not only in making many representations to the Attorney General (Mr. Scott) and the Solicitor General (Mr. Keyes) but also with the many police jurisdictions in municipalities throughout the province. It is from this experience that we respectfully submit the following recommendations for amendments to the Retail Business Holidays Act.

For the "holiday" definition, section 1 of the act refers to a holiday. If Boxing Day is eliminated, many stores will request employees to work on Christmas Day, the most important family day of the year, to prepare for Boxing Day sales. We suggest to you that stores be prohibited from opening on Boxing Day. Pre-Christmas openings are also a subject of discussion. There has been some argument that there is a need for additional hours during December. With virtually all stores open in December, some up to 70 hours per week, we cannot see any requirements for stores to be open on a holiday during that month.

Section 2 of the act defines admitting members of the public. This does not provide protection for the employee. We suggest that the act be supported by an amendment to the Employment Standards Act that would provide substantial penalties to an employer who in any way counsels, coerces or forces an employee to work on a holiday. There should also be an injunction process added to deal with those who totally disregard the law with repeated violations.

Section 3 of the act addresses exemptions for small stores. We realize there is an argument for the inclusion of books in subclause 3(1)(a)(ii). The argument is based on browsing. Does this not apply to all retail outlets? To grant this exemption would invite arguments in other retail sectors. Is this not also an area where they predetermine their book needs for a holiday so that day can be used for reading? It is a concern that needs explaining.

In clause 3(1)(c), the major convenience outlets submitted to the Ontario Law Reform Commission that 1,200 to 2,000 square feet was sufficient space. Obviously, it has a built-in expansion factor. The abuse of this section by closing off sections with barricades, having more than one entrance, etc. is certainly in defiance of the intent of the act and, if permitted to continue, should include a definition of what is a barricade and that it would be a violation to obtain any merchandise from a barricaded area.

We recommend that stores that operate Monday through Saturday with more

than 2,400 square feet should be denied the right to open on a holiday. The present conditions are creating untold problems for police jurisdictions and crown attorneys, which certainly was not the original intent.

Stores that qualify as convenience stores in recent years have undertaken scrambled merchandising so that the intent of convenience has been violated. These stores now sell hardware, video rentals and drugs. There is a need either to spell out what goods may be sold, or perhaps a confinement to essential items that, of course, would require definition.

Subsection 3(2) provided for pharmacies to sell limited products associated with health needs. This section requires that pharmacists be accredited under part VI of the Health Disciplines Act. All pharmacies selling prescription drugs are accredited, and the Ontario College of Pharmacists has never take any action against a pharmacy for not being accredited. Pharmacies charged with violations have been acquitted because the police, unfamiliar with this requirement, have not had to provide the courts with proof of accreditation. We believe that this section should apply to all pharmacies and that the reference to the Health Disciplines Act should be deleted.

1520

Clause 3(2)(b) states that "goods of a pharmaceutical or therapeutic nature or for hygiene or cosmetic purposes" may be sold and that "no other goods are available for sale except as sundries." Pharmacies totally violate this section and sell hardware, housewares, groceries. In a number of recently opened stores there are fruit and vegetable, dairy and freezer products sections, etc. The original intent met the needs of the public, and we suggest the word "sundries" be deleted.

This situation has drawn the ire of major retailers, which, in recent press releases, have indicated that unless this situation is rectified, it is their intent to violate the act. Their reasoning is understandable. For example, a major food retailer closed a store that was immediately reopened by a drug chain. This store and many others are supermarkets with the word "pharmacy" added.

We believe that the intent of clause 3(3)(b) was to permit the purchase of nursery stock for planting purposes and that the flower exemption provided for a florist to supply flowers on a holiday for delivery to a person who was sick.

Mr. Sargent: Can we have a synopsis of what this is all about? It looks like a long report.

Mr. Chairman: The association has an hour to make a presentation. I think I must let them give what information they feel is necessary and helpful to us.

Mr. Sargent: I see no connection.

Mr. Chairman: He is discussing certain sections of the Retail Business Holidays Act, which is a major subject of our concern. I am content to let him continue as he sees fit.

Mr. Kingdon: This section, as it applies to "nursery stock...and in conjunction therewith, accessory gardening supplies," is severely abused. Many of these outlets sell pool supplies, hardware and other items not associated



with gardening. This section is sorely in need of amendment, either to remove accessories or spell out the inclusions.

Municipal exemptions under bylaws in subsection 4(2) provide that municipalities may enact bylaws allowing all stores to open on holidays "where it is essential for the maintenance or development of a tourist industry." The word "essential" is the key to the abuses of this privilege. While the law reform commission spelled out in its report the meaning of this word, municipalities and the courts do not use this as a reference. A tourist exemption bylaw was recently enacted for Bronte by the regional municipality of Halton. A report to council states this definition is not law and is not referenced in any way or form within the context of the Retail Business Holidays Act. With the many generous exemptions in the act, this section could be deleted in its entirety.

The abuses of this power are so numerous that we have taken legal action, at a cost now approaching \$100,000 and in most cases unsuccessfully, to have those bylaws quashed. That you may realize the futility of challenging those bylaws, we are attaching a letter from our solicitors, Weir and Foulds. I will not take the time to read it out. It simply states that it is impossible to have the courts require that there be just some very simple evidence before them that is sufficient to justify the action. It will be included in our report, and you will be able to read it then.

There is irrefutable evidence that many municipalities have enacted irresponsible tourist exemption bylaws. There is no recourse, such as an appeal to the Minister of Municipal Affairs; the only recourse is legal action by our organizations. This should not be our responsibility, nor should we be burdened by these exorbitant costs. We believe the intent was to provide for resort areas a means of supplying tourists who may arrive at a cottage or camp site on a holiday and to provide additional revenue in what is a very limited selling season. A newspaper editorial has stated that some areas are more favoured by politicians than by tourists. We believe that this privilege, if maintained, should be subject to Ontario Municipal Board scrutiny and approval before enactment and that a definition of the word "essential" be embodied in the act.

The penalties under section 7 are totally inadequate. We can supply evidence of one violator who has violated on some 100 occasions, although not charged for each violation. In this particular case, he had advised a police officer that his net profit on a holiday is \$15,000. If he had been charged, convicted and fined a maximum of \$10,000 for each violation, he still would have realized a profit of \$500,000.

Dollar values have changed substantially since the enactment of the Retail Business Holidays Act in 1975. To be realistic, we believe the penalties should be increased to a minimum fine of \$2,000 to \$10,000 for subsequent offences. Penalties now being assessed are not a deterrent but simply a licence to violate. There are several areas that are not provided for in the act, and we submit these for your consideration.

Advertising: During the recent proliferation of violations, the violators were aided and abetted by the media, which published store openings, even though these were violations. It has been estimated this advertising in the Toronto area generated in excess of \$10 million in revenue annually for the print media alone. Advertising an intention to violate the law should be an offence. There should be a section in the act that makes it an offence to violate by advertising and that this be subject to the same penalties as those who violate in other areas.



Flea markets: The concept of flea markets has been totally ignored. These markets now sell anything from a fine diamond ring, a piano, high-quality furniture, etc. There are shopping malls in Ontario where merchants or tenants simply place a sales table in front of their store entrance and replenish stock from their store as required. This is another area that has raised the ire of department stores, as they see these lost sales with no way of competing.

The original concept of a flea market, according to Gage Dictionary of Canadian English, is "a market selling a mixture of cheap or odd items, junk, antiques, etc." We believe a new section should be added to permit flea markets to continue to operate but no goods should be offered for sale with a value in excess of \$15, except handmade articles and antiques if over 100 years old, which may be sold at market value.

Building and single-day operations: There are retailers who now operate on Sunday only and others who use a different entrance on Sunday than the one they use Monday through Friday. There are those who, while operating under a common roof, use several entrances to evade the law. There is a very urgent need to eliminate these abuses. All owners can now dictate the hours which tenants must open. A section should be added making it an offence to council, authorize or recommend that a tenant violate the Retail Business Holidays Act and be subject to the penalties provided by the act.

Provincial and municipal responsibility: A recent press release indicated that the government may consider placing the administration of holiday legislation in the jurisdiction of municipalities. We have communicated, and I will be supplying a copy of this communication to you, together with a questionnaire, to all municipalities in Ontario as listed in the Municipal Directory 1986. We have now received some 450 responses to this questionnaire, which is over half the total number involved and these quantities are coming in each day and will be given to you as a total when we make our submission to you. They believe the Retail Business Holidays Act should be administered by the provincial government and only 15 per cent believed that this should be under municipal control.

We are also enclosing an editorial by Dick Smythe of CHUM and CITY-TV, which draws attention to the question of city control. I would like to read it: "Attorney General Ian Scott wants to pass the buck. He says the thorny issue of Sunday store openings might be settled by individual municipalities. Bad move. It would put immense pressure on city halls. We have been through it already with the G-string law. There is one in Metro, there is none in Brampton. The results were, to say the least, disruptive. Say Brampton decided on an open Sunday and Metro Toronto did not. To the municipalities, this power also creates fertile ground for bribes above and below the table. Corruption is hard enough to control now at the provincial and federal levels. It would become endemic at the municipal level if the small-time aldermen got the power to give big-time businessmen what they want. Queen's Park cannot pass the buck to City Hall, to any city hall. The responsibility and the decision both belong to it."

That concludes my remarks. I will be pleased to answer any questions.

1530

Mr. Chairman: Thank you very much, Mr. Kingdon. Are there any questions. I have nobody on the list yet. Who would like to lead off?

Mr. Barlow: I sat through a couple of sessions on the Tory task force for the last two days when I helped fill in. Your brief, this time, is certainly consistent with what you said in the past, and is consistent with what many groups are saying now. But then, on the other hand, it is inconsistent with others, as you may well appreciate.

Based on the way the retail law is at this time, what would you do to change the present law to try to gain a moderate view, if you will, of retail shopping the way it is today? Is there anything you would do with the law the way it is today by way of amending it?

Mr. Kingdon: You are talking now of the question of Sunday shopping?

Mr. Barlow: Yes, Sunday shopping.

Mr. Kingdon: About the only concern that we have is the growth of the convenience stores that are the franchised members of Becker Milk, Mac's and 7 Eleven. They take about \$600 million a year in Ontario from the chain stores. They now have gotten into scrambled merchandising where there is a great deal of difficulty in defining what it is they are selling. What we are saying is that we have the act in force now, and it is working reasonably well. There is a need for amendments. There is no question about that. It is working reasonably well and, therefore, if it is operating in this way we would not recommend any great change to it.

Mr. Barlow: Were you satisfied with some or any of the recommendations of the Tory task force?

Mr. Kingdon: Yes. I think there were some there with which we could agree. The one that caused us the most problem is the tourist exemption bylaw. We have been the only organization that has attempted to fight this. We have gone to court on 20 or 30 occasions with different municipalities to challenge the tourist exemption bylaw that they had set up. It has gotten to the point where, in the last case we lost--and we lost practically all of them--the judge said there is some evidence. On the basis of there being some evidence available, he dismissed the case.

We have spent over \$100,000 at this point. I question how long we can go on carrying this burden. That is the concern that I have.

Mr. Barlow: Finally, Mr. Kingdon, what is the membership of your association? How many members do you have?

Mr. Kingdon: In the Ontario committee, which is a Toronto-based group, it is a very small committee of about 40 members. Our own membership is national and goes from coast to coast with numbers close to 70,000.

Mr. Barlow: There are only 40 members in Ontario and 70,000 in Canada?

Mr. Kingdon: That is right. The Ontario committee was set up to deal specifically with the Ontario situation. We have like groups across the country.

Ms. E. J. Smith: Where do most of those 70,000 exist?

Mr. Kingdon: They are split pretty well percentage-wise across the country by the percentage of population of the country by province.

Ms. E. J. Smith: There are no more in British Columbia or Alberta, for instance, than there are in any other province.

Mr. Kingdon: Not enough to differentiate.

Ms. E. J. Smith: You must be defining your 40 differently than your 70,000 then.

Mr. Kingdon: The 40 are just the committee set up in Ontario.

Mr. E. J. Smith: It is not comparable then.

Mr. Kingdon: There is no comparison between them.

Ms. E. J. Smith: That is what I was trying to understand.

Mr. Chairman: How many members of the organization would you have in Ontario, other than the committee, of course?

Mr. Kingdon: I have never had a count done on what we have in Ontario, but we run roughly about the same as what the population percentage is of the total.

Mr. Chairman: In other words, a third of the 70,000 would be in Ontario, because you have a third of the total population in Ontario.

Mr. Kingdon: That is right.

Mr. Chairman: That clears it up then. I misunderstood that.

Are there any other questions from committee members? If not, thank you Mr. Kingdon. We look forward to your written brief in due course. Thank you for your attendance here today.

Mr. Kingdon: I will have it prepared and sent to you.

Mr. Richmond: In response to Mr. Sargent's concern about deputants' points and recommendations, as is par for the course with other hearings, I am going to be working up a summary of all deputations.

Mr. Sargent: I am sorry. I did not know what the hell you were talking about.

Mr. Chairman: We all did, Eddie.

Mr. Richmond: I will be going through the Hansard and whatever written brief Mr. Kingdon submits and pulling out the recommendations.

Mr. Chairman: Is Tom Cook here or out in the hall? Does anyone know Mr. Cook? If not, unless there is other business to raise, I suggest we recess until approximately four o'clock and await his arrival. If he is here prior to that, we can get going with him. If he does not arrive by five or 10 minutes after four, we will adjourn for the day.

The committee recessed at 3:38 p.m.



Mr. Chairman: Order please. I recognize a quorum and members from all parties. We shall therefore reconvene and welcome Mr. Tom Cook to our committee. Perhaps you would like to sit in the middle. Take your time, catch your breath. If you have written material we would ask you to present it to us. Have you just one copy?

TOM COOK

Mr. Cook: Yes, I was talking to a member of the clerk's office a few moments ago. Unfortunately five of my six pages are typed, however, one of my pages unfortunately is my chicken scratch and it is not really presentable. It was suggested that I submit it at a further date.

Mr. Chairman: Fine, why do you not do that? In that case, proceed with the brief and afterwards we will ask you a few questions.

Mr. Cook: Thank you very much for the invitation to meet and speak with you today on this issue of concern, not only to myself but also I think to the majority of Ontarians.

Sunday shopping restrictions are valid and merit support from consumers and merchants, but most importantly, from employees in the retail trade sector. I would agree with proponents of Sunday shopping that this merits attention and concern. However, wide-open Sunday shopping in my view is unnecessary and is primarily supported by those who want more of the consumer-spending pie instead of sharing it with their fellow competitors. Some might it even classify it as self-interest greed.

Sunday remains the common pause day for most Ontarians and Canadians, regardless of their religious persuasion. Furthermore, Sunday is widely accepted as the common pause day in most countries, including the Soviet Union. Most Ontario small merchants, specifically in the retail trade, prefer Sunday remaining as the designated day of rest, considering many of them work a six-day week and Sunday is really the only day for them to spend with family and/or friends. Wide-open Sunday shopping would force them to be open, adding extra cost of wages to the business, without sufficient proof that consumers will arrive to purchase their goods and services.

I suggest to this committee that if wide-open Sunday shopping were permitted, large retail stores would have an advantage. Correct me if I am wrong, but is small business not the backbone of business success in Ontario?

As most members know or should know, the original post-Confederation Sunday shopping laws were introduced in 1906 by the federal government. The legislation entitled Lord's Day Act intended to set aside one day of the seven-day week as a common pause day of rest for all Canadians. One distinguished supporter of this legislation was George Brown from Ontario. Brown at the time was the editor of the Toronto Globe. In an editorial comment of July 9, 1906, Brown stated, "If life in Canada is to be worth living, there must be maintained a regular pause in the midst of life's increasing clamour and wasting strain." Yes, there was a time when the Globe actually was a leading labour promoter.

Violators of the Lord's Day Act of 1906 were liable to a minimum fine of \$20 and a maximum fine of \$100 in addition to any other penalties prescribed by the courts. The Ontario government took action on several occasions over the past half century to establish laws prohibiting Sunday shopping.

In fact, the Ontario government in 1969 requested that the Ontario Law Reform Commission conduct hearings on the issue of Sunday shopping since there was a growing controversy in the province over this issue. The commission commented: "The proposed Sunday observance legislation merely advocated the selection of a common day of rest that would represent the greatest possible numbers. Furthermore, Sunday should remain the designated day of rest, fully supported by most Ontarians in the past years." The commission concluded that, "The Legislature of Ontario has the constitutional jurisdiction to enact a plenary scheme of Sunday laws as long as the legislation is carefully drawn to achieve secular and not religious persuasions."

In briefs submitted to previous inquiries on Sunday shopping, there was an overwhelming concern for those workers in the retail trade, primarily because they are deemed to be the most vulnerable to unacceptable tactics exercised by their employers. The characteristics of these workers are important factors in understanding why present legislation focuses upon such employees.

The most common characteristics include women with little or no education in poor-paying jobs, including dressmakers, cashiers and sewing machine operators. Furthermore, there have been reported complaints of verbal and sexual exploitation of these workers by management officials. These workers are in a no-win situation. If the employer demands that his retail employees work on Sunday, after working long hours all week, what other choice do these employees have? Do they lose their jobs?

What astonishes me most of all with respect to this issue raised by many of the popular proponents of Sunday shopping is that the government has no right to tell employers when and for how long their business may open. This is not only an elitist proposition but also a ridiculous comment on their behalf. In fact, some business proponents of wide-open Sunday shopping have claimed that the maximum penalty of a fine of up to \$10,000 under section 7 of the Retail Business Holidays Act is an excessively large sum to impose upon violators.

What this indicates to me is that these violators are quite unaware of the consequences levied upon violators of this type of law in other jurisdictions. For example, there are quite severe penalties that owners face if their businesses are convicted of violating particular Sunday business laws in the United States. For example, in Madison county, Alabama, merchants who operate stores on Sunday may have legal action taken against them by their competitors. As well, fines range from \$10 to \$100 and/or imprisonment for up to three months in jail.

In the states of Texas and Louisiana, fines start at \$100 for the first offence and on subsequent conviction, there may be a fine of up to \$500 and/or six months in jail. I agree that the current \$10,000 fine is sufficient at present, but the penalty could be expanded to include a minimum fine, as it was originally included in the 1906 legislation. Serious consideration should be given by the government to imposing a jail sentence similar to those in jurisdictions such as in the United States for repeated offenders.

In a recent conversation with Donald Smiley, a Canadian constitutional professor from York University, Professor Smiley commented to me that Sunday retail workers would suffer greatly. Furthermore, grocery shopping on Sunday is not a big deal or really necessary for most people, considering that there are six other days in the week to shop. Professor Smiley also contends that Sunday shopping is not a freedom of religion issue at all, but more of a



socioeconomic issue. I fully agree and support Professor Smiley's latter comments, that the issue is more of a socioeconomic dispute, as opposed to a religious conflict.

Section 27 of the Charter of Rights and Freedoms states that the law should promote and preserve and enhance the multicultural heritage of Canadians. Sunday closing laws act in conjunction with this section of the charter. As mentioned earlier, most countries of the world recognize Sunday as their common pause day. Since Ontario is fully integrated with citizens from all cultures from around the world, the current restrictions enhance their tradition of Sunday closing laws. Most foreign-born Canadians have brought not only their talents, languages and ideas with them to Canada, but also one common denominator, the wish that Sunday remain their common pause day to celebrate with family and friends.

I put it to this committee that the desire for a just society must include rules and regulations established by government on behalf of the majority to protect the minority, be they Canadian-born or those who have immigrated to Canada. It is my opinion that Sunday closing restrictions establish a common courtesy to benefit the majority. The present Sunday business restriction laws complement provincial, national and international preferences. To tamper with them would be detrimental to employees, small merchants, the family unit and society as a whole.

Thank you very much for your time and consideration.

1620

Mr. Chairman: Mr. Cook, thank you very much for your time and effort. If you will wait, there may be some questions from members. Mr. Smith is first.

Mr. D. W. Smith: I appreciate your coming and making the presentation to the committee. It came up in different presentations and maybe it is a little bit off of what you are saying, but you definitely are opposed to Sunday opening to a great degree, I would say.

Mr. Cook: Yes, sir.

Mr. D. W. Smith: There was a presentation made by the The Bay store this morning and they want it opened up, I would say. They referred now and again to the chain corner stores. Do you think there should be different restrictions put on the chain corner stores from the small independent stores? Have you any opinion on that or do you want to make any comments?

Mr. Cook: Basically, my feeling is that the way it is currently is not only acceptable to me, but I would say to the vast majority of people. I have put it to people who have asked me questions on my views on Sunday shopping restrictions, "How about we reverse the situation and put yourself in the situation of being employed?" How many people would readily admit they would not mind giving up their Sunday which they traditionally have had off from work to work on Sunday? I submit to this committee that the vast majority of Ontario citizens would be against it, primarily those people who normally work a Monday-to-Friday schedule.

I accept that there are a great deal of people who now are working split shifts and so on and so forth and there should be conveniences, but if we look at the original intent of the legislation when Solicitor General John MacBeth



introduced it in December 1975, if I am not mistaken, it was to protect a specific group in society, those in the retail trade, specifically women who basically were being pulled from one side to another. If they did not do as their employer not only requested but also demanded, they would basically be out on the streets looking for another job.

I think there should be some kind of equilibrium and I would personally support that the local convenience stores remain as they are, allowing them to be open on Sundays. I do not think we really have to stress it beyond that.

There are certain qualifications to the concerns of many of the proponents of Sunday shopping, specifically from the employer side, but we have to also look at it realistically from an employee perspective, and that is what I have done in this. Not only have I done this presentation here, I am a student at York University and I recently put together a paper in this regard on Sunday shopping. I think I have investigated it fairly well. I have talked to many people, not only academics and professionals but also people from the labour movement and people in general.

I was involved in a survey that took place during the Christmas break for the university students and understand there were approximately 200 people who were questioned. Out of the 200, approximately 190 were in favour of keeping the law as it is. I did not just select a few people here and there; I went to different small strip plazas in different parts of northwestern Metro where I live and asked not only the merchants but also the average person coming in and out of the stores what their opinion was. They basically said that Sunday should be a day of rest for the family.

There are conflicts here and there, and they have to be taken into consideration, but by and large I still feel, and I think the majority of people still feel that Sunday should be a day of rest and that there are valid questions and concerns of the other side, and rightly so, but--

Mr. D. W. Smith: Are there not a lot of people who still would like to shop on Sunday, but if you ask them whether they want to work on Sunday, they do not want to work?

Mr. Cook: There is definitely a contradiction, but people really do not think of that. A good example is if you look at, which I have, different surveys--

Mr. Sargent: I am sorry I am late getting here. Whom does he represent?

Mr. Chairman: Himself, Mr. Sargent. He is here as an individual.

Mr. Barlow: The same as you represent yourself in Toronto as well as the people in your riding.

Mr. Cook: If you look at the opinion polls that have been taken in recent years on the issue, you do see overwhelming support of those specific people who support extending Sunday shopping. If you look further into the surveys taken by different opinion poll organizations, you do not ever hear asked the reverse question, would you like to be seen as an employee having to give up your Sunday to work in that specified time period? We have taken for granted, and I think rightly so, that we should still be able to have that 24-hour period off to spend with family or friends.

Mr. Philip: One of the statements I found hard to believe this morning was made by Mr. Agnew of The Bay and Simpsons. He stated that somehow passing legislation, to protect the worker's right of refusal would protect the worker's right to refuse. I gather you do not feel it would accomplish that.

Mr. Cook: Businesses are in a situation where I think they would have been even more verbally forceful if, on December 18, 1986, the Supreme Court of Canada had ruled differently. I think that is what it boils down to. As we witnessed in the electronic media, there was a surge of many of the downtown businesses, which were saying: "To heck with the current law as it is. We will wait until the Supreme Court of Canada makes its decision." Since December 18, 1986, there has been sort of a pullback from the business sector, specifically the larger retailers, saying, "All right, we are not really going to be more buoyant" to, in a sense, obstructing justice. That is what they are actually doing when they permit their firms to be open.

In fact, over the last few months I have done surveys with some of the individuals with whom it is most popular and, basically, they do see a need for a day of rest. They feel that government has no right interfering with them. I would agree to a certain point but, as I mentioned earlier, we take for granted that there should be at least a slotted time period allocated to the workers of society. This is backed up by the law reform commission of 1969, which suggested the same thing.

In fact, if you go back to the debates in the Legislature in 1975, you will find the same thing. If you go back to the debates in the House of Commons in Ottawa in the period in which the federal government originally initiated legislation, there was a great deal of opposition to it, but the primary opposition was coming from MPPs--or actually, in their case, MNAs--from Quebec. They were basically saying that government was actually just interfering with provincial jurisdictions and that it was ultra vires.

It was taken for granted in that respect, but as you look at the present day, I do have some sympathy for both sides, and I think we all should, regardless of how we sit on the issue, whether we favour it or whether we are sitting on the fence. Maybe there is just cause and reason for people sitting on the fence. Many of you probably have not really formed an opinion to support because of pressures from your own constituents.

Mr. Philip: Even if you sit on the fence, though, if you are an employee of a large company--and I have worked with large companies and I have worked with personnel training--would you not say that if you were to refuse a company policy, you would be seen as perhaps not one of the team players? Unless you could justify it on strong religious or personal grounds, you would be seen as being unco-operative, perhaps a troublemaker, an agitator, somebody standing out, somebody who perhaps should not be looked at towards promotion. Is that not the average attitude of most managers, with the exception of some companies? I could name some of the companies that have a different attitude.

1630

Mr. Cook: I agree with you 100 per cent on that issue, but times and people's attitudes have changed. You would be dead on up until, say, the 1960s period, where even the common layperson would say it is crazy that a person would want some kind of changes here or there. As we have progressed in the last 20 and 30 years, attitudes and values have changed, but on this specific issue I really do not think it has changed overwhelmingly in support of Sunday shopping.



Mr. Philip: That was not my question. Maybe I should rephrase it. Even with legislation to protect workers' rights, do you not feel workers will feel some kind of coercion to work on Sunday anyway if the store is open on Sunday?

Mr. Cook: No. I think there is a flaw in that respect. Looking at the industrial disputes in the last decade to 15 years, we are seeing labour basically standing up, whether they are right or wrong, and challenging the current restrictions on them.

Mr. Philip: Do people who stand up get promoted in companies if they are standing up in a way that is contrary to management's objectives?

Mr. Cook: I could only speculate on that. On that specific issue, I have not met anyone who has challenged his or her business by saying, "I want it this way," and the company saying, "If you do not like it, hit the road." If I am not mistaken, there are provisions within the legislation to protect--and I think rightly so--workers who want to stand up and challenge their employer on this specific issue.

Mr. Philip: Without a union, then you find that they can be dismissed for other causes.

Mr. Chairman: Now we are getting political, and we should not get political in committee.

Mr. Philip: I am merely giving you case histories of which I am aware. I could take a lot of time giving you examples.

Mr. Cook: I am sure you could.

Mr. Philip: One of the points that I found interesting that Mr. Agnew made this morning--and I think it is probably a valid one and one that might be looked at--is that while one of the objectives of government, be they written or not, may be to promote or protect small business, many of the small stores that are open are actually chains of large corporations.

If it is a legitimate objective to protect the small businessman as one of the side objectives or one of the many objectives of Sunday closings, does it make sense to you then to move also towards divestment legislation, as some economists have suggested, to ensure that if people are small businessmen, they are really small businessmen and not simply fronts or employees for large corporations, or wholesalers, in which case they may be both wholesaling and retailing at the same time?

Mr. Cook: Yes. As I mentioned earlier, I think it would be highly speculative on my behalf. What we should really take into consideration is the decision by the Supreme Court of Canada on this, where opponents and proponents of extending shopping on Sundays were able to put forth their views and concerns to the court of Canada. It was a six-to-one majority decision. They ruled that the Retail Business Holidays Act as it now stands is constitutional and that the present legislation is legitimate. I would have to support them fully in that respect.

I would put it in another way. I think it is up to you people as legislators to go out and not just read the newspapers and watch TV but also conduct surveys in your own ridings so that when you come back and when and if there is a vote on this issue in the House in the next few years, you



seriously represent the wishes of your constituents. I think there is a great deal of controversy on this issue, from one riding to another. There is growing concern that our representatives--not just on this issue, but on most issues that represent a specific level--are just not going out there or taking the time to find out what their constituents feel on specific issues, such as this issue, which is so controversial. We are seeing such a wide variety of opinions it. I think it is fair to seek out different but specific views of constituents. I do not mean just your constituency assistants or your supporters at elections, but take some kind of opinion polls. That is what they are doing in many of the different states.

A year and a half ago the Supreme of Canada decided that the legislation in Alberta was null and void because it was based on behalf of a specific religion and that it should review the situation. The following day Alberta decided to throw it on the shoulders of the municipalities. The Calgary Herald really blasted them for that, saying they were basically passing the buck. I do not want to see that.

I could see and I would accept that a municipality should consider holding some kind of referendum to get a general idea, but to put it on the shoulders of local municipalities is a failure of a level of government, specifically the provincial level of government, to take on the responsibility for which it was duly elected by the individual constituents.

Mr. Philip: This is my last comment or question. I trust you are not suggesting that legislators move towards a plebiscite system, as they have fallen in the trap in the United States. That simply opens up the door to demagoguery and to people buying votes. Whoever has the most money, puts on the best campaign and simplifies an issue can get the plebiscite through, rather than rational, reasonable decisions that elected representatives are elected to make.

Mr. Cook: The only problem with that is, as I cited in my comments, if you look at traditional states such as Louisiana or Texas where there are no ifs, ands or buts about it, if you are convicted of violating the Sunday restriction laws, not only are you fined, but also you could end up in jail. We do not have that.

Mr. Philip: I do not know what that has to do with answering my question, but thank you.

Mr. Chairman: Thank you very much, Mr. Cook. We appreciate your attendance here. If you provide us with your written brief when it is prepared and duplicated, we would appreciate that very much.

The concludes our hearings today. The bus leaves at 10 o'clock tomorrow morning at the front door, crack on time, not 10:10.

The committee adjourned at 4:38 p.m.



SELECT COMMITTEE ON RETAIL STORE HOURS

RETAIL STORE HOURS

WEDNESDAY, APRIL 22, 1987

Morning Sitting



SELECT COMMITTEE ON RETAIL STORE HOURS

CHAIRMAN: O'Connor, T. P. (Oakville PC)

VICE-CHAIRMAN: Guindon, L. B. (Cornwall PC)

Barlow, W. W. (Cambridge PC)

Bernier, L. (Kenora PC)

Morin, G. E. (Carleton East L)

Philip, E. T. (Etobicoke NDP)

Reville, D. (Riverdale NDP)

Sargent, E. C. (Grey-Bruce L)

Shymko, Y. R. (High Park-Swansea PC)

Smith, D. W. (Lambton L)

Smith, E. J. (London South L)

Substitutions:

Hennessy, M. (Fort William PC) for Mr. Bernier

Knight, D. S. (Halton-Burlington L) for Mr. D. W. Smith

Mitchell, R. C. (Carleton PC) for Mr. Barlow

Polsinelli, C. (Yorkview L) for Mr. Morin

Sheppard, H. N. (Northumberland PC) for Mr. Guindon

Also taking part:

Callahan, R. V. (Brampton L)

Clerk: Mellor, L.

Staff:

Richmond, J. M., Research Officer, Legislative Research Service

Witnesses:

From the Canadian Jewish Congress:

Zaionz, C., Chairman, Ontario Region

Prutschi, M., National Director, Community Relations

From the City of Toronto:

Eggleton, A., Mayor

Tomlinson, P., Director, Economic Development Division

LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON RETAIL STORE HOURS

Wednesday, April 22, 1987

The committee met at 10:09 a.m. in room 151.

RETAIL STORE HOURS  
(continued)

Mr. Chairman: I see members of all parties present. Perhaps we can get under way, ladies and gentlemen.

Good morning, and welcome to the extended version of the extended shopping hours task force. Sorry, it is not a task force this year; it is a select committee. What year is this? Last time I did this, I think it was a task force. In any event, we have two days of hearings for groups and associations from the Toronto area who, unfortunately, were unable to be accommodated when we sat in Toronto a month and a half ago.

We apologize generally to the public for being able to obtain only two additional days. There have been literally dozens of requests for time to appear before us. Unfortunately, it has been simply impossible to accommodate everyone. We have taken the groups on a first-come, first-served basis and have been able to accommodate, as you can see from the schedule, a day and a half's worth of hearings, today and tomorrow morning.

Our first group this morning is the Canadian Jewish Congress, Ontario Region. I see there are two or three representatives. Gentlemen, would you like to come forward. Good morning and welcome. Please have a seat in front of one of the microphones, if you will. Thank you for taking the time to prepare and present to us a brief this morning. As I understand it, you are representing the Canadian Jewish Congress. Perhaps you could identify yourselves and then either read or summarize your brief, following which the committee members would perhaps like some time to ask you some questions with regard to your comments and representation.

The time allotted is half an hour approximately. We would ask you to stay within that time because we have a full schedule. We started a little late, so do not worry about going until about 10:40.

CANADIAN JEWISH CONGRESS, ONTARIO REGION

Mr. Zaionz: My name is Charles Zaionz and I am the chairman of the Ontario region of the Canadian Jewish Congress. On my left is Manuel Prutschi, our national director of joint committee relations for the Canadian Jewish Congress.

I will read through the brief quickly, if you do not mind.

The Canadian Jewish Congress, Ontario Region, is a democratically representative organization of the province's 150,000-strong Jewish community. Active as a voice of Ontario Jewry, the Canadian Jewish Congress has made numerous representations to government and intervened in legal proceedings on such matters as anti-discrimination laws, racial restrictive covenants, religious education in the public schools, anti-hate laws, civil liberties and

civil rights, education, religious rights, minority rights and domestic peace and security.

Such activities are an outgrowth of one of the Canadian Jewish Congress's principal aims: to ensure that the rights of the Jewish community are protected so that its members may function freely and fully as an integral part of Ontario society. It is in pursuit of this objective that we submit this brief.

The observance by man of a weekly day of rest is one of Judaism's unique contributions to civilization. In Jewish life, Shabbat, the Sabbath, is the most special of days. It serves as man's constant reminder that God is the ultimate source of all being and the sole creative force in the universe. On a weekly basis, it liberates man from the profane and the everyday so that he can fully direct his heart and mind to loftier pursuits. A clear interest in the wellbeing of the labouring man is, likewise, intrinsic to some of the Sabbath's laws.

The Jewish Sabbath commences at dusk on Friday evening and ends after dark on Saturday night. The overall observance of the day involves worship, study and reflection, both at synagogue and at home, and interacting closely with family and friends. It is a day when one abstains from school, work and participation in the very worldly concerns of business or commercial transactions of any sort, including shopping. There are those as well who, on the Sabbath, do not avail themselves of motorized or mechanical transport.

The Canadian Jewish Congress favours the observance of a weekly pause day as of transcendent good to society as a whole. It does so out of the Jewish consecration of the Sabbath as well as Jewish sympathy with and concern for the cause of labour and a strong partiality for the notion of family togetherness, both values which are not only inherent to the Sabbath but which are also reflected in other Jewish laws and practices.

The Canadian Jewish Congress notes that Sunday, although sectarian and nonuniversal in origin, has come to be accepted by Ontarians as the traditional weekly day of rest. However, while legislation may reflect that, the broadest possible allowance must be made for those communities which observe another weekly pause day.

To a degree, Ontario's present Retail Business Holidays Act already evinces such concern for minority sensibilities by incorporating in subsection 3(4) a limited Sabbath exemption. The act should also particularly be praised for not making those eligible for exemption subject to a test of their religious beliefs or observances.

More often than not, in particular faith communities there are no universally recognized religious authorities, nor is there a wholly uniform standard of belief and observance. Rather, it is more likely that there are a number of religious authorities looked to for guidance by different segments and the range of observance is, in part, conditioned by the individual conscience.

As far as the Canadian Jewish Congress is concerned, the Sabbath is a weekly pause day of the Jewish community as a community. It matters not how many individual Jews keep the Sabbath or how individual Jews specifically observe it. For government to inquire into matters pertaining to religious belief and practice would be inappropriate, offensive, an invasion of privacy and would violate freedom of religion. In these views, the congress but echoes



the thoughts of the Supreme Court of Canada, as articulated in a portion of its judgement upholding the constitutionality of the Retail Business Holidays Act.

With these preliminary thoughts in mind, the Canadian Jewish Congress suggests the following changes to the Retail Business Holidays Act and other provincial legislation which has an impact on the question.

1. Subsection 3(4), as now constituted, is too limiting and discriminatory. It excludes large retailers outright and, indirectly, it might serve as well as an impediment to possible expansion by mid-size retailers. The legislation is, in effect, declaring that some Sabbath-observant retailers, i.e. small and mid-size, are more equal than others, i.e. large-size.

Madam Justice Bertha Wilson put it best in her dissenting judgement on the Supreme Court decision to uphold the constitutionality of the Retail Business Holidays Act. She wrote that though the act "purports to recognize a group right, namely, the right of those who close on Saturdays on religious grounds to stay open on Sundays," in effect, "it does not recognize the group right of all members of the group, only of some." Madam Justice Wilson pointedly added that in making this differentiation, the most unfortunate result "is to introduce an invidious distinction into the group and sever the religious and cultural tie that binds them together."

It is therefore recommended that the work force size and space limitations in the Sabbath exemption be totally removed.

2. Apart from Sunday, the Retail Business Holidays Act provides an additional minimum of eight yearly pause days, some of which are exclusively Christian holidays.

In Judaism, other than the Sabbath, there are five holidays with a possible maximum of 13 days on which Sabbath restrictions apply.

We have made a number of minor changes here from the written submission, and I will read this slowly.

We therefore recommend that for every day other than the Sabbath on which retailers close as a result of a nonwork holiday of a faith community, they be allowed to open on one of the days other than Sunday deemed as holidays in the Retail Business Holidays Act.

I think we will skip the next section and go to the end.

We also recommend that provincial legislation on employment standards be amended so as to allow employees to observe nonwork religious holidays without penalty as long as an employer is in a position reasonably to accommodate them.

Our thinking on that precedes the conclusion I have just read to you.

Unresolved concerns: Our recommendations essentially address the needs of retailers and employees. However, there is a third group, consumers, that is directly touched by Sunday-closing legislation.

There is no denying that, in one way, the sabbath exemption is helpful to Jewish consumers, making some consumer goods available to them on Sunday. We would want to clarify that it is our belief that chain stores which

designate a particular store for closure on the Sabbath on a consistent basis should continue to be allowed to open such stores on Sunday, as is currently implicit in our recommendations. Still, with this allowance as a given, it is equally true that because of the act, Sabbath observers remain significantly inconvenienced and penalized as far as their acquisition of general goods is concerned.

Saturday is the most popular family shopping day. For Sabbath observers, particularly families with children and single-parent families, the inability to shop on Saturdays, compounded by a virtually closed Sunday, presents unique difficulties. Our recommendation for an unrestricted Sabbath exemption probably only very marginally alleviates the problem.

Thank you very much.

1020

Mr. Chairman: Thank you. Questions from the committee? Mr. Shymko.

Mr. Shymko: As the committee members are aware, from the start of the committee I have pointed out the discriminatory aspect of the particular clause on space and work force size limitations. Do you consider this particular discriminatory factor as part of the concerns you have had, seeing this as discrimination on the basis of religion, minority rights, as is consistent with the work of the Canadian Jewish Congress?

Mr. Zaionz: I think there is some discrimination involved. Certainly, I do not know that it is necessarily intentional discrimination, but the effect is discriminatory.

Mr. Shymko: One of the arguments that is being used in counteracting this change in the act is that it is fine for a single sort of operation, but when you have a large corporate retailer employing hundreds of individuals, you would indirectly, subliminally be forcing these employees to work on Sunday against their will. They may not say it, but there is the subliminal sort of pressure. The constant argument I have heard, both from other witnesses and from some members of the committee, is that it would be very difficult. It is acceptable for some reason when you have small staff that you could accommodate, but when you have hundreds of employees some of them would probably be injured. Is your recommendation for the amendment in the provincial legislation of the Employment Standards Act addressing specifically that?

Mr. Zaionz: I think it does address that.

Mr. Prutschi: If I may, yes, it very specifically has that in mind, and that is why, in the preamble sort of thinking behind the third recommendation, it very specifically states that any changes to the Employment Standards Act should cover those workers who opt to be off on Saturdays, or on other religious minority holidays, as well as those who do not wish to work on Sunday and on those days defined as holidays by the Retail Business Holidays Act. Very specifically, there should be legislation that would prevent any large type of operation that closes on Saturday from compelling workers who do not want to, to work on Sunday.

Mr. Shymko: I am very glad you have introduced as a double-barrelled approach as one of the first recommendations, being pretty well supported by that other recommendation, because that addresses this issue. Would you then

safely say that we should not amend the act by taking the first recommendation and leaving out the second? In terms of eliminating this discriminatory factor in the act, as pointed out by the dissenting Supreme Court judge who did not address the other amendment issue, in order to address this inequity and injustice one must go in a parallel way with that amendment.

Mr. Zaionz: Yes. I believe that is so.

Mr. Prutschi: Absolutely.

Mr. Shymko: It would not be acceptable any other way.

Mr. Zaionz: That is true.

Mr. Philip: Are you aware that retailers--in other words, management and owners--as well as unions and employee groups, said: "You can pass any legislation you want--the Human Rights Code, the Employment Standards Act--but employers will find ways of discriminating against any employee who wishes to be unco-operative"? I wonder how practical your recommendation is, and what safeguards people will really have. Do you have any feeling for that?

Mr. Zaionz: I think that is up to the legislators in terms of safeguards. It probably is wrong to accept blanketly that employers are of a certain moral character and they will, as a group, take advantage of employees. Employees are organized, and although there may be cases when that may happen, I do not think, as a rule, that will happen. I think employees can and will speak out, as they do in other matters, if they are forced to do things that they do not want to do.

Mr. Philip: I was not suggesting that employers are somehow diabolical. The employers themselves have made the argument that, if they are put into a financial squeeze, no matter how benevolent and no matter how understanding they want to be to employees, if they need a certain expertise to man their store, for example, a jewellery store where there are security problems or a Canadian Tire store--the Canadian Tire store owners have come to us in every city we have been in--where you need a certain knowledge and expertise of the product, that, in fact, it is fairly simple.

You do not have to force an employee to work. You just make the schedule according to what you know about that employee. If the employee is a single parent who has cub scouts on a Tuesday evening, you book them for every Tuesday evening. If the employee has courses on Wednesday, you book them then for duty on Wednesday. I am wondering whether you feel that the safeguards you are recommending are offset by the good that you would obtain by extending this to large retailers.

Mr. Zaionz: We are not recommending an open Sunday. What we are recommending is not much more than currently exists, an expansion of what currently exists. In that limited sense, I do not see it being the problem that your question seems to imply.

Mr. Prutschi: We are very conscious, and we have tried to be very conscious, particularly of the concerns of labour in these matters. We have had discussions with different labour groups at various levels on this issue.

I think, again, it is what Mr. Zaionz was saying. In a sense, any kind of legislation is open to circumvention. It is the obligation, in the sense of legislators, to come up with legislation that cannot be circumvented or can be



least circumvented. For instance, in regard to what you are talking about, clearly it can be put in legislation that if you have a consistent pattern of harassment of a particular employee where his or her shifts are constantly being put on scout night or whatever, that can be proven.

One of the reasons that we come up with this recommendation for changes in the employment standards law is specifically because, at present, although there is recourse to something like an Ontario Human Rights Commission tribunal, the process is so ponderous and so long, as you can see in the case of Ms. O'Malley, that by having it enshrined in employment standards legislation, one would hope that recourse could be much more immediate. If legislation can be made so that recourse is immediate in that sense, we think those abuses could be kept to a minimum.

Mr. Philip: Yours is a very respected organization, and I recognize the amount of time restraints you have had, but we have had Jewish businessmen appear before us who have been in favour of Sunday closings on the ground that, for example, when you have 17 employees, as does a Windsor merchant I am thinking of, under the Human Rights Code he says: "Quite frankly, I do not know what religion my employees are, but if I stay open on Sunday, I know that somehow I am going to be stepping on their rights. It is more practical for me, as a businessman, simply to accept the common pause day and to exercise my religious rights myself as the owner and go to a synagogue and observe my religious beliefs."

1030

I am wondering how extensively you have consulted Jewish businessmen about what you are recommending. I recognize that your executive has probably taken a position and it is being covered in your publications, but have you had very much feedback from large retailers of the Jewish persuasion in the community?

Mr. Zaionz: We have had feedback of sorts. As you can understand, we are not a homogeneous group. We have our own interests and our own ways of looking at things. The Canadian Jewish Congress represents the Ontario Jewish community and the Canadian Jewish community in much the same way as this Legislature represents Ontarians generally. There is not a massive agreement necessarily, but the consensus would seem to be what is in our submission.

Mr. Philip: But you have not done a survey or asked for feedback?

Mr. Zaionz: We have certainly had feedback. We have not conducted a survey per se.

Mr. Prutschi: The feedback we have received--totally from businessmen, I have to tell you--has been in support of a broadening of the allowances regarding Saturday closing and Sunday opening, universally and without exception. I want to add one more thing, that is, when you speak of Jewish businessmen, it is the Jewishness we are talking about here and not the businessmen part of it. That is what we are addressing.

Mr. Philip: I recognize that you are talking about culture rather than religion necessarily. They may be practising or nonpractising, if you use that terminology.

Mr. Prutschi: It is an ethnocultural approach.

Mr. Philip: I have one last question. If we accept your recommendation, what would prevent some business people who are not Jewish, Muslim or Seventh Day Adventists from simply seeing an economic advantage to being open on Sunday and suddenly declaring their conversion to any one of those religions or, indeed, even inventing their own religion that has a Sunday sabbath or a Monday sabbath, so that they can remain open both Saturdays and Sundays?

Mr. Zaionz: Of course, we are addressing this as the Canadian Jewish Congress, and I certainly will not speak for other religious groups as to what their particular pause days are, but intrinsic in the act currently is the fact that anyone can do that right now. One does not have to be Jewish to be closed on the sabbath and open on the Sunday today. The act is written in such a way that one does not have to prove one's religious adherence or observance in order to stay closed on a Saturday. We have that right now, and I do not think there would be any difference if you accepted our recommendations.

Mr. Philip: Except that the people who are doing it right now are usually butcher shops that, be they Muslim or Jewish, are smaller stores.

Mr. Zaionz: I do not know who is or who is not doing it, but I do know that the way the act is currently written it is possible under the act.

Mr. Prutschi: We recommend that that continue to be so, for a variety of reasons.

Mr. Philip: My last question concerns your second recommendation, which I think is an interesting one. I wonder if you know of other jurisdictions practising that at the moment whose experience you can give us.

Mr. Prutschi: No, we do not, Mr. Philip. We simply thought it was a logical extension of our amendment to subsection 3(4).

Mr. Philip: If you had a backup position and your first recommendation were taken away, how would you weigh your first recommendation against your second recommendation?

Mr. Prutschi: I do not think there is any question.

Mr. Zaionz: I think we would go for the first recommendation, obviously.

Mr. Prutschi: But we think that to be consistent, the second recommendation flows from the first. It is certainly collateral to the first.

Mr. Philip: Would you extend your first recommendation to franchise operations? In other words, would you say that perhaps one Becker Milk store might be open because the manager is Jewish? Becker's stores are open anyway; say some of the larger chains that would be franchised. Could you have one supermarket open and the other one closed because of the nature of the manager or franchisee, as the case might be?

Mr. Zaionz: As a matter of fact, I inserted an addition as I was reading. Perhaps you missed it. We recommend in the case of chain stores that if a chain store were to designate a particular store as being closed consistently on the sabbath, it be allowed to open that store on Sunday. I think the answer to your question is yes.

Mr. Prutschi: This is so because we are really addressing the concerns of three different groups in our recommendations. First, we are talking about Jewish retailers. Second, we are talking about employees, Jewish and non-Jewish employees, from different angles. Third, we are talking about Jewish consumers.

It is now implicit in the act, and we are suggesting that it remain so; that is to say, for instance, in an area of Jewish population concentration, one should very much see the opportunity for a particular store of a franchise operation to close on Saturday and open on Sunday, because there it is serving the needs of sabbath-observant consumers, not retailers. We are not even talking about the religion of the retailer necessarily, but really of the market of that area.

Mr. Philip: Of the client.

Mr. Chairman: Gentlemen, thank you very much for your time and your brief. We shall certainly take it into account in the course of our deliberations.

Mr. Prutschi: I have brought some little brochures from the Canadian Jewish Congress about the Jewish holidays.

Mr. Chairman: Perhaps you could give them to the clerk, and she will see that they are circulated.

Mr. Philip: I have one last supplementary.

Mr. Chairman: But they are gone, I think, Mr. Philip.

Mr. Philip: Are they gone or can I slip in an extra question?

Mr. Chairman: All right. Go ahead.

Mr. Philip: In the case of large supermarkets that have kosher meat sections, would you be open to allowing--as they have in Vaughan, I believe--the kosher section of the store to be closed on Saturdays and the kosher section only to be open on Sundays? Would that be another compromise you might be willing to consider?

Mr. Prutschi: At the moment, that is not really a compromise; it is an observance of the legislation as it is now in place. What we are suggesting is that the opportunity be there for complete opening on Sunday if there is closure consistently on Saturday. If there is not closure on Saturday, that option should not be there.

Mr. Chairman: Thank you again, gentlemen.

Next, we have the city of Toronto, and as our agenda indicates, there will be representatives from the city of Toronto as nominated by city council. I see we are to be honoured with the presence of the mayor himself.

Your worship, welcome this morning.

#### CITY OF TORONTO COUNCIL

Mayor Eggleton: Thank you very much. I am joined by Peter Tomlinson, who is our director of economic development. His division is a division within



our planning and development department. He has been the staff person responsible for helping city council through the struggle of determining what it wanted to say to your committee.

Mr. Chairman: Perhaps I could interrupt for a brief second. You have presented us with three documents now. They are numbered 438, 438A and 438B. Obviously, there will not be time to read through all these. Perhaps you could consider summarizing them. I think that 438A appears to be a summary of your general recommendations. Is that correct?

Mayor Eggleton: I was going to speak to that. I was not going to speak from any prepared text. I was just going to make some observations and go through that list in the document entitled Guidelines adopted by City of Toronto Council on April 21, 1987.

In essence, what city council is saying is that it does not want wide-open Sundays. Sundays are qualitatively different, and we want to keep them that way but on the other hand, we do not want them shut down tight either.

1040

So what is recommended here, coming from Toronto city council, is akin to a status quo suggestion. It is not an easy matter to deal with. I cannot vouch for absolute consistency through all these recommendations. As in any municipal council operation, as you know, various motions are put. I will try to take you through each one of them and give you what I believe to be the reasoning that city council has behind endorsing them.

The first and foremost is "That city council is generally in support of a Saturday or Sunday as a 'pause day,' as provided in the Retail Business Holidays Act." Perhaps it is more aptly described as a Sunday pause day with the Saturday option.

We did have a suggestion in front of us, which is the other document you referred to, from our staff that suggested the possibility of expansion. That document, while adopted in part by the economic development committee, was not adopted by city council. City council decided, on a vote of about 14 to eight, not to recommend any examination of an option for expansion.

The particular one that was looked at by city council is on the front page of the other document from the department and is noted as suggested guideline B, "That the select committee give consideration to increasing the range of goods permitted to be sold on Sundays province-wide, taking into account the potential for increasing tourist expenditures as well as consumer convenience, and to invite municipalities and other interested parties to comment on specific proposals prior to introducing legislation."

It was the feeling of the economic development committee, on the basis of public representations that had been made, that there still were some opportunities to be taken advantage of in terms of the tourist industry. That was one recommendation that came forward from the staff of the economic development committee, but did not come through from the city council decision of yesterday.

However, city council has said, getting back to the guidelines front document, in section B, that some tidying up, some modifications should be made to the current legislation. One is something you have just heard about,

in fact, "the objective of permitting stores to substitute Saturday closings for Sunday without restrictions"; that is, without the restriction of the 5,000 square feet or the seven employees.

Again, city council's feeling is that perhaps a very small number of establishments do take advantage of this for religious or cultural reasons and that they should not have to be subject to the kind of restriction presently provided. This is not intended to provide any kind of a loophole, to have checkerboard situations where retail stores decide to have one store open on Saturdays, another store open on Sundays, etc. That has not been the experience in the city of Toronto with the Saturday option. We are only suggesting that those who now exercise, for religious or cultural reasons, a Saturday option should not have this restriction to 5,000 square feet or seven employees.

"The need for more rational limits on floor space and the number of staff." First of all, the 2,500-square-foot floor space provision that is allowed in respect of Sundays is not realistic in terms of the city of Toronto's variety store establishment. They are generally 50 per cent bigger than that. So what we are getting out of this is roped-off areas. These are not supermarkets I am talking about; these are the kind of stores that are permitted to be open, were intended to be open. Yet, because they go beyond this arbitrary limit of 2,500 square feet, an area has to be roped off, which is an inconvenience for customers. We think there need to be more rational limits than that. As I say, in the city of Toronto, the variety stores are generally about 50 per cent larger than that 2,500 square feet.

"The maximum number of staff serving the public in food stores, news-stands, pharmacies and other retail outlets currently permitted to operate on Sundays." I have experienced it, as have many other people. You go into a drug store on a Sunday, you get into a long lineup and there is a sign right at the cash register that says, "Because of the Retail Business Holidays Act, we cannot put enough employees here to give you proper service." This is happening in many of the establishments--"food stores, news-stands and pharmacies," as it says here, across the city and is only an annoyance, a frustration, an inconvenience for our residents. We think the act should be amended to provide for a reasonable square footage for the kind of stores we want to have open, but not get into the employee numbers.

Point 3 is "the need for the more precise definitions of ambiguous terms in the act such as 'sundries.'" It is hard for me to be of any help to you in terms of what city council means here, but we did have representation, for example, from the Canadian Retail Hardware Association. Perhaps many of you are familiar with the drug stores that sell just about everything nowadays. You can get groceries, hardware and other things that a few years ago people never really saw as the kind of product you would buy or the reason you would go to a drug store. These accessory, ancillary kinds of phrases that are used, which seem to provide an open door to selling many other things that perhaps were not intended, are something we are suggesting needs more precise definition.

Point 4 is "the need for a more consistent treatment of leisure-related Sunday retailing." As examples, we give magazine stores, record stores, bookstores and video stores. The first one and the last one are allowed to be open, the video stores, as a result of a court decision. You can buy magazines, but you cannot buy a book. We are saying that bookstores, record stores and hobby shops, those kinds of leisure-time activities, should receive general exemptions, not tourist area exemptions, province-wide to be

consistent in terms of the leisure-time activities that seem to be an intent of the act to allow.

Sections C and D go together. Section C reads, "That any expansion of the scope of Sunday retailing activity be accompanied by measures to ensure retail employees receive at least one weekend day off each week, with the choice of which weekend day being up to the employee." That phrasing comes from the staff report and there is some description in there of how that might be done, although it is very difficult. City council would admit that it is very difficult to determine how you are going to enforce this, but I think we wanted to emphasize that people should not be forced to work both days on the weekend.

Indeed, if you get into section D, we are saying, "That the provincial government be requested to provide for appropriate labour law which would protect employees from compulsory Sunday work." If they do not want to work on Sunday, they should not have to do so. Again, I cannot offer much in the way of assistance as to exactly how that might occur, but certainly council is very supportive in principle of people not being forced to work on Sunday. As I say, in the general principle of the common pause day, the opportunity for families to be able to get together if they so wish, we want to try to maintain that kind of lifestyle in our city.

Section E says, failing all else or whatever, "That the provincial government be requested to consider a plebiscite at the next provincial election with respect to Sunday opening." There has always been a concern about how the public feels about this. Indeed, in the past the city of Toronto has dealt with questions of Sunday openings; for example, Sunday sports back in the early 1950s and then theatres. It actually put them on the ballot in both cases out of respect for the concerns people have about something that is a very emotional issue.

Finally, Section F is, "That recommendations contained in the communication from"--two of our council members--"Alderman Christie and Councillor Jakobek, be adopted." That is attached to the document you have and has the number 22 on it. It deals specifically with Greenwood Race Track. My understanding is that your committee is dealing with more than just the Retail Business Holidays Act. You are looking at Sunday opening or closing matters in general. It was suggested--I think this came out of a conversation with the Attorney General (Mr. Scott), in fact; this is noted in the report--that a position with respect to Greenwood Race Track could be presented here.

Greenwood Race Track is now open on Sundays, and there is a great deal of concern in the east end of Toronto in the Beaches area about its opening and the impact it has on the neighbourhood because of the massive amount of traffic with people in the area. It certainly was the understanding of city council, going way back, that when Woodbine Race Track was built in Etobicoke, it would be open on Sunday and Greenwood would not be. However, that has now changed. In spite of some submissions that have been made to the provincial government, the matter still appears to be unresolved, and it was suggested this might be a way of doing it.

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What is being asked for here, in essence, is the municipality having the option in terms of racetracks on a Sunday. Some municipalities, no problem, they will want it open, fine--but it is suggested here that the city of Toronto be given that option with respect to Greenwood Race Track, which runs,



of course, not only a sporting event, I suppose, but also in terms of betting certainly a business.

Those are the recommendations that come from council. Again I have mentioned the staff report which has more of an inclination to expand, but that was not adopted by council.

The one area we have not addressed here is the tourist exemption area, section 4. That is one we felt we would deal with subsequent to how the Legislature deals with the act in total. If section 4 still does survive, and depending upon what form it is in, we will then have to come to grips with what has been one of the most difficult sections, in any piece of legislation, for us to administer. That is my submission, Mr. Chairman.

Mr. Chairman: A brief comment with respect to the Greenwood Race Track situation. I think we may have to entertain a discussion among members of the committee as to whether our mandate is broad enough to include that. As I understand it, in any event, we are to deal with retail store hours. Therefore, it may not extend to that situation, although, as you have indicated, we have had considerable representations, through briefs, letters and telephone calls to myself, with regard to that situation.

I believe I heard from Alderman Christie, with respect to attending before here, and indicated to him that we did not feel that situation could be dealt with by our committee and suggested that he provide us with a brief, which he did. However, we will discuss that among ourselves. I am not sure, though, that the Attorney General is correct in indicating that our committee will be dealing with it as such.

I have three speakers on the list. First, Mr. Philip.

Mr. Philip: We have been dealing with recreational facilities and I think a racetrack sells a product, namely, recreation, in the same way as any other retailer. Therefore, it would certainly be within our mandate.

I want to ask you some questions about that. I gather the position you would take would be that in the case of Woodbine, since Woodbine does not create a problem to the residents of that community, the touchstone would be, as in the case of Greenwood, where the local municipal council felt that the opening on Sunday of a recreational facility in fact created hardships to the lifestyle of the residents in that community. Is that your criteria by which the council should be allowed to take some action?

Mayor Eggleton: Yes, I think that is the concern quite precisely. The suggestion here is that it be left a local option. If it is not a problem in Etobicoke around the Woodbine Race Track, then fine, but in the case of the city of Toronto there are many difficulties.

City council, I should point out, has not taken a specific position with respect to Greenwood racing on Sunday. It said it wants the opportunity to be able to make that decision. It is felt that it should have had some say before a decision was made to allow the opening. It was not able to do so through the previous route, that it attempted. It is now saying, "Then perhaps this route is an opportunity to give us the chance to say yea or nay."

Mr. Philip: I can assure you we have certainly heard from Ms. Bryden about some of the problems it is creating in that community.

Mayor Eggleton: I am sure. Yes.

Mr. Philip: I am wondering if you would recommend that, if that option were given to municipalities, vis-à-vis recreational facilities--and it could be anything from a lion safari in one community to any other type of recreational facility--would you recommend an appeal process? Would that appeal process be the Ontario Municipal Board or some other body, that could at least have an impartial hearing in the case where either the residents or the operator felt that the municipality had acted unfairly, or would you simply allow it to be at the complete and final discretion of the municipality?

Mayor Eggleton: Philosophically, I have always preferred the latter, but neither I nor council have given any consideration to an appeal procedure. We would certainly be prepared to make the decision.

Mr. Philip: On the tourist designation, do you personally feel that the Eaton Centre is a tourist--I will not say a tourist attraction; as the mayor, you dare not say no. Do you feel there is something unusual about having a tourist designation in downtown Toronto and not including the Eaton Centre? That is a position that has been put to us a number of times; that more people travel through the Eaton Centre for recreation activities than actually to shop. Obviously, enough of them buy; otherwise, they would not be in business. But millions of tourists go through the Eaton Centre.

Mayor Eggleton: Yes, there is no doubt about that. It very definitely attracts tourists.

Mr. Philip: Should that be under the tourist exemption?

Mayor Eggleton: We have said no. The difficulty with the tourist exemption is where you draw the lines, both in terms of the geography and the types of shops you allow to be open within them. When the act first came out, we experimented, first of all with Markham Village, which was one short street where most of the shops were allowed to be open under general exemption provisions in any event. We did test tourist exemption there. We then also did one in Chinatown, again for products that are relevant more to the Chinese culture. There is one very famed furrier who is located within the boundaries of Chinatown West--

Mr. Reville: He is coming tomorrow.

Mayor Eggleton: --but he is not allowed to be open because it is not relevant to the reason for the tourist designation, which had to do with the Chinese cultural element in that area.

Then hotels and Harbourfront, finally, were exempted. At the time Harbourfront was before us, the Eaton Centre matter was as well. The way we were able to rationalize Harbourfront separately from the Eaton Centre was the fact that it is more isolated from the general retail industry in the city. It is south of the railway tracks, south of the Gardiner Expressway, in an area that is very much a leisure-time area for both residents and tourists alike. However, we felt that while we could rationalize it on those tests, applying those at the Eaton Centre would produce a different result.

For example, if we were to allow the Eaton Centre to be open, we would have difficulty in the boundaries. We would have then to entertain similar applications for the surrounding stores on Yonge Street. Then where would you draw the line on Yonge Street? You would have to go up to Bloor and Yorkville.

At that point, you are virtually having the whole city open, and that is not the intent of the legislation. I would think that any attempt to have the entire city exempted under the tourist exemption would fly in the face of the intent of the Retail Business Holidays Act.

Mr. Philip: An argument has been made that in addition to tourist areas, there are certain tourist products and you can easily calculate that, particularly where the American tourist dollar is spent. For example, we were told that in Windsor, for example, in the tourist area, the only real major product that is sold is furs. The Americans come across the border, and that is the major product they buy.

Could you accept that in addition to tourist areas, perhaps there should be a designation that there are certain types of products, namely, chinaware and furs, that seem to be purchased in larger numbers, particularly by American tourists, and that perhaps certain types of stores should, during certain seasons in the case of some communities and maybe during all seasons in the case of Toronto, which is a year-round tourist centre, be open on Sundays for those reasons of getting those American dollars that are coming across the border?

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Mayor Eggleton: We entertained that idea yesterday when the staff report on the economic development committee recommendations were before us. As I read earlier, one of them is that consideration be given to increasing the range of goods permitted to be sold on Sundays on a province-wide basis, so that we can open it up to the extent of providing for the tourist opportunities; take advantage of the tourist opportunities.

There are a number of things that are already exempt. There are general exemption provisions that relate to the tourist industry. One major one that is not and could be considered is clothing, because when you get into clothing, you get into a very wide variety of stores. For example, about 40 per cent of the stores in the Eaton Centre would be constituted as clothing stores; that includes shoe stores, as well. Certainly, in addition to the things tourists can already get in places under the general exemptions, clothing is the biggest single one; perhaps jewellery, as well.

The ramifications of that were such that council was concerned that it would open it up too much. As I say, council's position is, "We do not want it wide open, but we do not want it shut down tight either." We are in the middle range that you saw is most difficult. The feeling was that this would be taking it just too far. So even though the economic development committee said yes to the further examination of that possibility, the council said no.

Mr. Philip: Would you accept the fact, though, that a majority of clothes are bought by local Toronto or Mississauga, or whatever, residents, whereas the majority of furs and chinaware are actually bought, according to the industry, by out-of-country residents or visitors?

Mayor Eggleton: I really do not know. That is quite possible. I just do not know.

Mr. Philip: At least, that is what we were told by the major furriers and by the local chamber of commerce and so forth in Windsor.

Mayor Eggleton: I have no reason to doubt that. I just do not know.



Mr. Philip: One last question. The argument has been made that if you allow the municipalities the right to designate the tourist areas, you will have people like Hazel McCallion designating all of Mississauga as a tourist area, and essentially the province has to come in and say: "Here are the tourist areas. We recognize this as a tourist area and we do not recognize that." Do you agree with that position, or do you have a halfway position, or do you simply want to duck that particular issue at this point in time?

Mayor Eggleton: It would be easy to say, "Let the province do it," but I think it is our responsibility. We are always saying that there are issues such as this that can best be determined on a local basis, and I think we have to take the responsibility. Indeed, council yesterday did have a motion before it. It said, "Leave it up the province where these tourist areas go," and that motion was defeated.

Mr. Philip: Would you agree that Mississauga is not a tourist area? Ignore that question.

Thank you very much.

Mr. Shymko: First, I want to congratulate the municipality, the council and the city of Toronto for their recommendation with regard to Saturday closure for religious reasons and opening with no restrictions on Sunday. I think you are the first municipality to take this stand, and I congratulate you on the leadership. I wanted to ask you whether there was unanimous passage in council of that recommendation. Was there a debate on that?

Mayor Eggleton: There were a few dissenting, but I must say that it was not because of the option for people who exercise it at present. It was a concern about the checkerboard possibility, that retail stores may decide they will have half their retail stores open on Saturday and the other half on Sunday, so that they are really being able to have their cake and eat it too. That was the concern. I do not think there was any concern about the people who decide for the option for religious or cultural reasons. That is why I very specifically worded my commentary on that in that way.

Mr. Shymko: We have just had a presentation from representatives of the Canadian Jewish Congress. In an answer to me, they suggested that there be a parallel recommendation on the amendment of the labour standards so that there would be no discrimination towards the employees. Would you support that sort of parallel approach, with the two recommendations going forward?

Mayor Eggleton: Absolutely. As I think council has indicated in recommendations C and D, it is concerned about the protection of people's rights for a common pause day.

Mr. Shymko: The reason I was asking whether it was unanimous is that I wondered whether the New Democratic Party caucus at city council was supportive of it. Maybe they should have a little chat with Ed Philip and some of the NDP members here to convince them of the wisdom of eliminating this discrimination. This was not a part of your commentary. I certainly want to congratulate you on that first issue.

The other question I had is with regard to the recommendation on the need for more precise definitions of ambiguous terms and items, such as "sundries" and so on. Do I understand from this recommendation--and I am looking also at the amendments suggested in the city of Toronto economic

development committee of December 19. They seek to broaden the list of goods and services under subsection 3(1) to include more items. Do you understand that "precise definitions" means more limited definition of goods or do you want them expanded?. Do you want the precision to expand these goods or do you want the precision to limit these goods? Do you want pharmacies to sell furniture now? Today, you can easily buy anything you want in a drugstore.

Mayor Eggleton: Here again, I am trying to bear in mind that I am presenting the city council position, so I am trying to think what the collection of 23 would be saying. I think the concern arises more from inconsistency, imperfections, inequities in the legislation and in its administration. I think it is just a matter of getting it so that people know what the score is, so that they have an understanding. I do not think council is really saying to confine it more or open it more, but to make it so that people understand it.

Mr. Shymko: Do you support the present sort of drugstore that has become a mini-market store or do you want it more restricted by definition so that the maximum should be drugs.

Mayor Eggleton: Maybe we would need to be more restrictive in terms of its primary business being pharmacy and maybe we need limitations on the other products it could sell. I do not know how far you can get into this without it getting too unwieldy, but if it is being allowed to open because it is a pharmacy, then that should be its prime business.

Mr. Shymko: Would you do the same thing with a Canadian Tire store that opens on Sunday under the gardening element but is really selling furniture and lawn chairs and things such as that? Do you want that to apply to practically--

Mayor Eggleton: I think we should go back to the basics to determine what it is we really want to allow. While we do not want to be overly restrictive, we want to be limiting in terms of how far you can spread this accessory or sundry definition. It is not easy.

Mr. Shymko: You have been very careful so far in answering some of the questions in not getting pinned down on specifics. I guess it is the art of all politicians. Let me be a little more blunt and see whether I can get an answer on some issues.

On the whole question of beer and wine, the province decided recently that it should be a municipal decision. It dumped it on the municipalities and said: "You decide. We are washing our hands of this issue." There is debate that we may do the same thing with the issue of Sunday openings--it has been done in Alberta and British Columbia--and make it a municipal decision. Instead of your telling us to hold a provincial referendum, why do you not hold a referendum? Would you be willing to give the municipality rather than the province the onus on the decision on Sunday openings, as has been done in two other provincial jurisdictions?

Mayor Eggleton: We have the section 4 onus now.

Mr. Shymko: On tourist designation.

Mayor Eggleton: It is quite a difficult one to deal with, as I have indicated. Beyond that, I do not know. I would have to consider, as you would

have to consider, the implications province-wide for making all exemptions a local option.

Mr. Shymko: We have seen what happens.

Mayor Eggleton: We are certainly quite willing to continue to assume, difficult as it is, a local option decision-making role with respect to tourist areas. Yesterday, council rejected a decision to send it all over to the province, but as to whether we want to expand our role, I have not personally given consideration to that and the council certainly has not.

Mr. Shymko: It is my understanding that under the act you can pretty well--even a regional government or municipality--declare an entire municipality a tourist area.

Mayor Eggleton: I have heard that to be the case. If we did this in the case of Toronto, our position is that we would virtually destroy the legislation. Once that happened the suburban areas, including Mississauga, would have to take measures to protect their own retail industry and you would have a very substantial part of the province wide-open.

Mr. Shymko: I understand from your answer that you would have objections to applying the beer and wine approach to Sunday closing, to the municipality.

Mayor Eggleton: In terms of beer and wine, we have taken the position that we are fine the way things are. Perhaps there are other parts of the province that would want to have changed legislation but we feel Toronto is quite well serviced by the stores that are in operation for those purposes now.

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Mr. Shymko: Government by plebiscite is something that I think all levels of government are very careful of when you start promoting this because our parliamentary system does not rely on a plebiscite approach. You minimize it as much as you can. Why are you suggesting this to the province?

Mayor Eggleton: There is some history, at least in the case of the city of Toronto, of dealing with Sunday matters by plebiscite as I mentioned earlier.

Mr. Philip: We should hire you with all the experience you have in High Park. Do you want to run the plebiscite for us?

Mr. Shymko: It has been very democratic and I think consistent for the past three quarters of a century.

Mayor Eggleton: I am not one to suggest that we go overboard on plebiscites. You are here to govern and we at city council are there to make those kinds of decisions. In recent years we have rarely put anything on. We have never had it on as a plebiscite and we have not made a decision with respect to this one as a city of Toronto plebiscite, but we have not ruled it out. It is a possibility.

I think we are going to get into a discussion about the tourist area exemption. Depending on what the legislation looks like at that point, we might decide to go that route. I guess it is because of our history with



respect to plebiscites in terms of Sunday openings that the suggestion was made. Quite frankly, it came very much at the last minute of the council meeting yesterday.

Mr. Shymko: But you are open on the next municipal election, which I believe is in 1988. You may look at the question of a plebiscite in a number of areas, including this one.

Mayor Eggleton: That is quite possible.

Mr. Shymko: I think you have pretty well answered some of the questions I have.

Mr. Chairman: Before we go on, may I ask whether Kevin Molloy is here? He is the next delegation. If not, it will give us a little more time and flexibility with the city of Toronto.

Mr. Hennessy: I am interested in the suggestion you made that since Greenwood Race Track is selling a product, you would like it to come under the jurisdiction of council. Am I right when I say that?

Mayor Eggleton: It is a business and it has a fair impact on the neighbourhood it is in because of the large number of people who go there, not just to watch the horses but also to bet. Even when the track is not operating and the horses are not running around, they can still bet there and this business operation has an enormous impact in that neighbourhood.

Mr. Hennessy: Seeing you are in that position, would you not put the Toronto Blue Jays, the Toronto Argonauts and the Toronto Maple Leafs hockey club under it also? They are selling a product too, the same as the racetrack is. Would you not put all Sunday sports under the jurisdiction of council? If you put one, you cannot discriminate against the others. Then where would the domed stadium go?

Mayor Eggleton: I was afraid that would be asked. I am not about to suggest we take a backward step on Sunday sports. This was one of the issues that was in a plebiscite, as I pointed out.

Mr. Philip: If you transfer it to Woodbine, we will let it be open.

Mayor Eggleton: I think the concern is that it is more than a sport; it is a business. With the volume of betting and the dollars involved, it takes on a different nature from Blue Jays and Maple Leafs games; at least what happens at the site, I would add. We are looking at it independently and differently. We are not suggesting we broaden it in this case.

Mr. Hennessy: Betting goes on at baseball games, hockey games and the Argonauts, right on the premises.

Mayor Eggleton: Who knows?

Mr. Shymko: Not in Toronto; maybe in your part of the province.

Mr. Hennessy: You do not know what the game is like.

There is another question I would like to ask. You mention that the retail employees receive at least one weekend day off each week, with the choice of the weekend day being up to the employee. What is a fellow going to

do who has a store if all the employees decide to play it one way and say, "We are all taking Saturday off"? If this is a union store, is he going to bring in extra people and try to break the agreement he has with the union? Then the fellow or the lady who owns the store will have a problem, because if all the staff decides they are going to get even with their boss and say they are all going to take Sundays off or all take Saturdays off, if there is no staff that day, how are you going to arrange that? Will you bring in extra staff when there is an agreement that says you cannot bring in extra people to work?

Mayor Eggleton: I do not know whether we have contemplated that kind of a revolt, so to speak. I think what we are saying is that a lot of businesses, because of general exemptions or tourist area exemptions, now are allowed to be open on Sundays, so there are going to be many employees who will be working on the weekends, but they should at least get one of those days off. Frankly, I do not know that I can do much to help you, in terms of how that would be enforced. I do not know whether Peter wants to add something; the staff has probably given this some thought.

Mr. Tomlinson: There would certainly be a situation where additional part-time staff would have to be recruited in the scenario you put forward where no existing employees are willing to work on one of those two weekend days. The suggestion put in the staff report dated April 8 was that consideration be given to a mandatory weekend day off. No retail employee could be working both Saturday and Sunday, even voluntarily. That could be an enforceable situation because if the inspector saw the same employee in there both days there would be a charge against the store owner. The general thinking behind it was that there would be enough employees who wanted Saturday off and enough employees who wanted Sunday off that the store could operate viably on both days. The situation you put, where every single one of them wants one of the two days off, could only be dealt with by recruitment of part-time staff.

Mr. Hennessy: Your worship, your submission is that the provincial government be requested to consider a plebiscite for the next provincial election. You know as well as I do that a plebiscite is only an opinion and is not mandatory, is not binding in any way whatsoever. It is only an indication to the members of the council what direction to go.

Mr. Shymko: Not with the liquor issue in my area.

Mr. Hennessy: The idea is that if you get that kind of vote, you are only fishing to find out whether there is more than one way and whether it is a good political way to go that way. If it is pretty close, 49 to 51, you have a difficult situation. Therefore, I do not think a plebiscite would solve anything, to some extent, because we are all elected to serve and make decisions, not to let the public make the decisions for us. A plebiscite would solve nothing as far as I am concerned.

Mr. Reville: I know the mayor and his council have struggled mightily with this issue over the years. I was happy to be involved in some of those struggles myself.

I want to address myself to two issues mainly because I think you have covered the rest. In terms of Greenwood Race Track, I see by your report, at least the report that came from the economic development committee under Councillor Jakobek's and Alderman Christie's names, that you have looked at several options. You will know that we have heard from Ms. Bryden a great deal about the problems the racetrack causes in that area. It seems to me you have

met with the relevant ministers who have made some suggestions, which I find a bit curious, but I do not believe our committee has taken a position on whether Greenwood Race Track is within our purview. From my point of view, I think it would be useful for us to discuss it and when we get to that stage, will make some of the suggestions that you recommend.

Notwithstanding that, when our committee reports to the House, that is the report of our committee and we have no way of knowing what the government will do with our recommendations. That being said, has your council decided whether it will apply for special legislation, given that our report and any action resulting therefrom is as yet undetermined and that you already know you have a problem in that area?

Mayor Eggleton: The short answer is yes. Although the council has not made any formal decision about yea or nay to Greenwood opening on Sundays, it feels that it should have that option and that would give it enough ability to be able to deal with the racetrack and with the problems in the area and then, ultimately, make a decision as to whether it would allow opening on Sundays.

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Mr. Reville: We have not had much in the way of representations about racetracks in general before the committee, although as Mr. Philip pointed out, we did have a very strong deputation from African Lion Safari which is a kind of recreational activity. It might in fact allow us to put racetracks in the same category for our consideration.

Just in general terms, it is my understanding that in some communities the racetracks are situated in a way that they do not cause this kind of neighbourhood infiltration problem, that they are good for the local economy and that those communities would probably want their racetracks to open on Sunday. The suggestion you make that the municipalities have an option of making a ruling sounds like a good one.

Mayor Eggleton: To me, Greenwood Race Track seems to be quite different from any of the other racetracks I have seen. It is literally right in a residential area and there are people who park indiscriminately on the streets throughout the area. On Easter Sunday, I was going into the area and it took a substantially longer time to get there because of the tie-up of traffic and people looking for parking spots and indiscriminately parking all over the place. It is really quite a different situation from what I have seen at other racetracks, certainly Woodbine Race Track in Etobicoke.

Mr. Philip: There is no problem at all.

Mayor Eggleton: They are quite different circumstances altogether and that is the reason why this is being asked for.

Mr. Reville: On a different matter entirely, and referring to the April 18 report from the economic development committee, can you, or perhaps Mr. Tomlinson, tell me whether in doing the research for the discussion it was possible to ascertain what the economic impact of the tourist designation has been on, say, Markham Village, Chinatown or Harbourfront?

Mr. Tomlinson: We had to acknowledge in our report, towards the end, that there is no definitive information at hand based on surveys of tourists and how much additional money they spend here where they have a Sunday



opportunity compared with what they would spend if they had only Saturday to shop. Assuming they come here for the weekend, as most of our tourists do, the situation now is that, aside from our tourist areas, they have to do their shopping--if they want to do that--on Saturday and their other activities, such as going to the Art Gallery of Ontario or the Royal Ontario Museum, on Sunday.

Because of the very crowded condition of the stores in downtown Toronto on Saturday, it is not all that attractive to tourists to do their shopping on Saturday. From that situation, it is primarily a logical deduction that if we had Sunday retailing opportunities, we would get more tourist expenditure. But there is no definitive information to prove that. We are going to have to gather some more survey data before we approach the tourist area question again within this city.

Mr. Reville: Are you intending to do that as a matter of course or does that depend on--

Mr. Tomlinson: Yes, we are intending to do that.

Mayor Eggleton: That is the second phase.

Mr. Reville: We would be very interested in your results when you get them.

I have one further small question. In your recommendation B4, where you talk about "more consistent treatment of leisure-related Sunday retailing," and note "magazine stores, record stores, book stores, video stores," did you deal at all with art galleries that sell art works to people? That has been a recommendation before us and I wonder whether your council dealt with it.

Mr. Philip: Private art galleries.

Mr. Reville: Private art galleries.

Mr. Tomlinson: Not explicitly, but these are meant to be only examples of leisure-related retailing activity, and art galleries are clearly in that category as well.

Mr. Callahan: I have two questions. One of them has been touched on, Greenwood Race Track. I gather that the big problem there is the question of lack of parking and parking all over the neighbourhood. We have certainly had a number of statements from Ms. Bryden in the House about that issue. I gather that has been around for quite some time. It is not just something that has arisen recently.

Mayor Eggleton: It has been around for some time and measures have been taken to alleviate it. Additional parking provided by the Ontario Jockey Club, restrictions in terms of street parking and tow-away zones, all sorts of things have been tried, some of them with some success and others with more limited success.

At least on Sundays they always felt they did not have to worry about it. There could be some peace and quiet and they could enjoy the kind of qualitative difference that Sundays offer in that area as well, but now the opening on Sundays has changed all of that. They are back fighting the people parking in driveways and the cars all jamming up and traffic conditions on the street. That is what has raised the concern in the neighbourhood.

Mr. Callahan: You have indicated to Mr. Reville that your council did consider the question of special legislation similar to the special legislation requiring employers to establish smoke-free places in the work place. Has that decision been approved and is it the intention of the city that it would bring an application for a private bill?

Mayor Eggleton: That would be the next step. The initial step was to try and deal with it through the Ontario Racing Commission. Also, the residents commenced a court action, but that has been to no avail. That does not appear to be a route that would give the city the opportunity to say yea or nay on Sunday racing.

The next step is, as per this report, to come here. Right or wrong, the information we had was that this committee would be open to considering the matter, so we have brought that here. If you decide your committee is not going to deal with this, that it is not part of your terms of reference, we would then go to the next step, which is a request for special legislation.

Mr. Callahan: All right. Do you have any concern in that regard? As I understand it, even around Canadian National Exhibition time there is a tremendous outpouring of cars on to people's driveways and streets and so on. Do you not have some concern that might require some type of action with reference to the exhibition as well?

Mayor Eggleton: We are not totally, since we have a new stadium which will be going up soon, so it is only a matter of a couple of more years facing that situation, although there have always been activities in and around Exhibition Place for a great many decades.

I think the aspect of this that is being looked upon is the business aspect as opposed to the pure sports aspect, because the Greenwood Race Track does in fact, open at times when there are no horses going around the track, simply in terms of the bet taking, so it is akin, although not by definition, to a large retail operation in many respects. That is why we separated it out for this attention in this action. We are not suggesting that be expanded to Exhibition Place or any of the sporting activities.

Mr. Callahan: Finally, in the municipality I come from, beautiful Brampton, we have a lot of flea markets out there. Do you have flea markets in Toronto?

Mayor Eggleton: Yes.

Mr. Callahan: How do you control those? How do they come about lawfully on Sunday? Is there some municipal legislation that allows that?

Mr. Chairman: They are in the act.

Mr. Tomlinson: They are not under any tourist designation. The one in the St. Lawrence Market appears to operate legally under existing provincial legislation, I guess because they are able to fit in with some clause in the Retail Business Holidays Act.

Mr. Chairman: It is clause 3(1)(a), I believe.

Mr. Callahan: Those--at least in my municipality--cause more problems. They cause a Greenwood raceway problem every Sunday with the spillover of cars and so on.

Mayor Eggleton: We have not had a big problem. The biggest operation on Sunday in the downtown area is probably the antique market at Harbourfront. Yes, there is a fair bit of congestion as a result of that, but it is not creating the same kind of problem as it is out in Greenwood with the large number of residential streets and single-family dwellings and duplexes in the area. At Harbourfront, you have more apartment buildings. The parking they have is underground and it does not have the same kind of impact on them.

Mr. Callahan: Over a period of time, they also seem to creep into selling everything from soup to nuts.

Mayor Eggleton: That is the problem with the "sundries." They seem to be able to get an awful lot in under those definitions.

1130

Ms. E. J. Smith: It seems to me, generally, where we are going, we are hearing more the theme that we should be tightening things up so that it is more understandable and fairer across the board. Generally, I have heard that from you. There are two things in your brief I find somewhat contradictory to that, and I am trying to get at the rationale. I know these things can happen in council almost as a sawoff, and I am trying to figure out if that is what happened.

The first one is recommendation B2, where you see "more rational limits on floor space." You sound as if you want us to loosen up there, whereas my own thinking would have been, from what I have heard up until this time, that we should be tightening down rather than loosening up, particularly in such things as drug stores. In London, we have a Herbie's Drug Warehouse and people say drug stores are being developed to the point of abuse; that because we are not tight enough we are therefore creating more Herbies and they will continue to expand unless we tighten the law.

Therefore, I am surprised with that recommendation. I would have thought what we ought to be doing is the reverse and saying, "This is specifically it. If 7-Elevens are being designed to that size, so be it, but we are not going to fluctuate in size." That would have been my thought. I am interested in the thinking on that.

The other one---just to get both of my questions in and then hear from you---is that I would have thought maybe people expected us to get more involved in defining tourist areas. It may be just for Toronto, because you are so big, that you have made the decision you want us to stay out of that and leave it to you to designate. I wonder if there was any discussion of a way that both could have input into it. In other words, that the province would indeed have some way of defining tourist areas so you do not get abuses of a whole community saying, "Okay, we have now declared ourselves a tourist area," and yet on the other hand, leaving a city like Toronto some flexibility to recommend to the province.

Mayor Eggleton: I do not know what form the dual responsibility might take. We have looked at the act as being one where the general exemptions are worked out by the province, and we do these geographic, local ones that we think are advisable to do. If there were more general exemptions that were made by the province with respect to those goods and products that are sought by tourists, then it could well be that we would not need tourist area designations at all, except that I do not know where you would draw the line on that.



Ms. E. J. Smith: I do not know where you would start that.

Mayor Eggleton: You might open it up too much. As I indicated earlier, we find section 4 very difficult to deal with because of where you draw the boundary lines, and anything that can be done to clarify that and to make it easier for us to administer, of course, we welcome. I do not really have any other suggestions or thoughts on how we might do it on a dual basis.

Ms. E. J. Smith: If recommendation B2 were saying "the need for more rational limits" or might almost be understood limits, defined limits--

Mayor Eggleton: Yes, I think that is what we are saying here in all of recommendation B. We are not saying we need to tighten down in terms of more closings. We are saying we need to remove some of the imperfections and inequities; we need to make things more clearly understood.

In the case of this "rational limits on floor space," our understanding of the 2,500 square feet is that it was a rather arbitrary limit. Maybe that is not the case, but in terms certainly of the city of Toronto variety stores--the kind of places that were intended to be allowed to be open--that is not a realistic figure. The result of that is roping off, and roping off is an inconvenience to consumers.

Ms. E. J. Smith: I would like to outlaw roping off.

Mayor Eggleton: Yes, I think we would like to get rid of roping off, if not by law, at least by more practical limits in terms of the kind of stores we want to have open. That is all we are saying there.

Ms. E. J. Smith: I guess it seems to me that size is the only way you can do it. When Herbie's can be bigger and bigger and now they rope off and put two entrances, to me that is just an abuse and I would like to prevent it, period.

Mayor Eggleton: I think we have to go back to the basics. What is it we want to exempt? What is a realistic limit? Then that is it.

Ms. E. J. Smith: Yes, I agree with that.

Mayor Eggleton: And not impose a maximum number of employees either, because that creates an inconvenience and a frustration for our consumers as well.

Ms. E. J. Smith: Just in passing, I make a comment on this racetrack thing. I am not from Toronto and I have trouble seeing this as part of the thing. As far as I am concerned, when the African Lion Safari people addressed us, they were addressing us from the point of view of retail store closings, because they say, "If you open up Sundays, we will not have people coming to the African Safari." That is their big day of business, so I think they were addressing the store closings rather than closings related to them.

Mr. Callahan: They wanted to get the lion's share of the business.

Ms. E. J. Smith: That is right. They do most of their business on Sunday, because stores are closed and cities are closed. So I have trouble seeing your racetrack problem as being other than a problem that somehow you should resolve. I do not know if you have any comment on that; I just wanted to comment how I feel about it at this point.

Mayor Eggleton: When I first saw this report, which came to city council the other day, I was surprised it would have anything to do with what your committee is doing.

Ms. E. J. Smith: I do not think it has.

Mayor Eggleton: But there was some consultation that involved the Attorney General (Mr. Scott) and that is how we ended up here. As I say, if it is not something your committee wants to deal with or is going to deal with or does not feel is part of your terms of reference, then we will go the further step of requesting special legislation to give us the opportunity to do that.

Mr. Chairman: I might just note that Kevin Molloy appears not to have attended at 11 o'clock and therefore has lost his time. Is David Lowenstein here? He was slated for 11:30. He is not here.

Perhaps you would bear with us for one more question, your worship.

Mayor Eggleton: Certainly.

Mr. Chairman: I thank you for extending your time in being here. Mr. Shymko had one more point.

Mr. Shymko: I thank you for allowing more time.

I have two supplementaries related, first of all, to the question from Mrs. Smith as to some contradictions. I thought I understood you to tell this committee that the sale of clothing is not allowed in tourist-designated areas. Is that correct?

Mayor Eggleton: No. I would think it is not allowed in the case of Chinatown west, I believe, because the furrier is not allowed to be open.

Mr. Tomlinson: But it is allowed at Harbourfront.

Mr. Shymko: My question would be, if Mr. Magder would open his operation at Harbourfront, there would be no problem?

Mayor Eggleton: Yes. As I say, there are many imperfections and inequities. This legislation--

Mr. Shymko: But you have created some of those. In this case, you are creating the imperfections. You are asking us to resolve them when you yourself have said, "No clothing to be sold in Chinatown, but you can sell it at Harbourfront." Why do you not be consistent in this area?

Mayor Eggleton: That is certainly something we are going to review post your decision about the act in total. We are quite prepared to continue to assume the responsibility if that section does remain in the act. The section has not been easy to administer. It is one that talks about something that is essential for the preservation of a tourist industry--I cannot remember the exact words--and trying to define what that is and how you apply it has not been easy at all. So we have had very difficult legislation to deal with to start with.

Then we experimented in terms of Markham Village and Chinatown west at a very early stage. If we were doing them over again, I do not know that we would do the same thing, but we experimented with them in terms of tourist

industry promotion. At Harbourfront, there was a feeling we could give that kind of exemption because of the nature of the operation and because of the location of it.

I agree there are inconsistencies and inequities, not only in the tourist exemption but also in the general exemptions that are allowed in the provincial legislation. That is what I think we are trying to do in the recommendations we have put here, to work towards removing them. I do not know that we can go backwards on Chinatown west or Markham Village or Harbourfront to iron out all the inequities, but I think we have to try to remove as many as we can, both in that section and also in the general exemptions section, which is what we are saying here today.

Mr. Shymko: Our act currently does not provide any limitations on items to be sold in a tourist-designated area. That is my understanding.

Mayor Eggleton: The two aspects we determine are the geographic boundaries and the products within that area.

Mr. Shymko: I think this committee would appreciate, if not openness and no limitation on items in the tourist-designated area, that some of the contradictions a municipality applies cause problems for us when, on the other hand, you try to convince the committee that we should eliminate some of the inequities and expand the items, as you have indicated in one of the recommendations, open up the items, from my understanding, by clarification and by being more precise. But you have admitted there are some inconsistencies in some of your own municipal decisions.

Mayor Eggleton: There are inconsistencies and contradictions at both the municipal level and the provincial level.

Mr. Shymko: My last question is with regard to what you define as "more rational limits." That is a very tough definition to apply to space and staff currently allowed under the permitted retail establishments on Sunday, pharmacies, news stands, food stores and so on.

Did you discuss at any time what suggestions you would make as to space, when you say the space should be related to a "selling area of typical convenience"? Any owner of a retail establishment permitted to operate on Sunday will have varying answers as to what he regards as a selling area of typical convenience. So you would have a lot of variances. Do you have any suggestion as to any limit? Legislation at the provincial level should say "up to" or within some area.

Mayor Eggleton: All right. I think it is a question of examining the sizes of retail space for the kind of stores we are talking about exempting.

Mr. Shymko: What are they in Toronto?

Mayor Eggleton: As I said, in the case of variety stores, the typical variety store in the city of Toronto, I understand, is about 50 per cent larger than this 2,500 square feet.

Mr. Shymko: They are about 5,000 square feet.

Mayor Eggleton: No, not quite.

Mr. Shymko: About 3,500.



Mayor Eggleton: What we are saying is pick a more realistic figure in terms of what the data indicate the size of these operations is. That can be determined.

Mr. Shymko: Would you still have a maximum, would you suggest?

Mayor Eggleton: Yes, you should have a maximum, but a more realistic maximum so that you do not get into this roping-off business.

Mr. Shymko: Currently, you can get around the roping-off area, because if you have 5,000 square feet, you put a rope in the middle, put in two cashiers and the same allowed staff, people just come in through two different entrances and exits and they are legal. We have heard examples of that.

Mayor Eggleton: I think you go to a square footage that is more realistic in terms of the kind of stores you want to have open but excludes the stores you do not want to have open. You just do not get into roping off at all. The stores that fit the definition are open, the others are not open and you do not restrict the number of employees.

Mr. Shymko: But you would have a maximum?

Mayor Eggleton: A maximum square footage.

Mr. Shymko: When you say you do not restrict the number of employees, you must have--

Mayor Eggleton: No, do it on a square footage basis.

Mr. Shymko: They would be limited to the space?

Mr. Eggleton: Yes, just limit the space; do not get into number of employees.

Mr. Shymko: In Toronto, it is about 3,500 square feet? Maybe you have some figures for Toronto?

Mr. Tomlinson: If you look at the variety stores that are now typically opening up around the city, like Variety Food Fair, they are in the area of 4,000 square feet. Those are the highest category of variety store in floor area before you get into the supermarket range. They are now having to rope off one or two aisles, since the stricter enforcement has started.

Mr. Shymko: In Sault Ste. Marie, a different square footage is typical in that municipality. What you are saying is to allow the municipality to decide on the space.

Mayor Eggleton: We have not said that, but if the variances around the province are such that it is difficult to put in that square footage, then that is an option I think would be reasonable.

Mr. Chairman: I thank your worship for your attendance here today. The lack of attendance of two other presenters has given us an opportunity for a much fuller and franker discussion, and we do thank you for your time.

If there is nothing further, we will adjourn now until two o'clock.

The committee recessed at 11:43 a.m.



SELECT COMMITTEE ON RETAIL STORE HOURS

RETAIL STORE HOURS

WEDNESDAY, APRIL 22, 1987

Afternoon Sitting





SELECT COMMITTEE ON RETAIL STORE HOURS

CHAIRMAN: O'Connor, T. P. (Oakville PC)

VICE-CHAIRMAN: Guindon, L. B. (Cornwall PC)

Barlow, W. W. (Cambridge PC)

Bernier, L. (Kenora PC)

Morin, G. E. (Carleton East L)

Philip, E. T. (Etobicoke NDP)

Reville, D. (Riverdale NDP)

Sargent, E. C. (Grey-Bruce L)

Shymko, Y. R. (High Park-Swansea PC)

Smith, D. W. (Lambton L)

Smith, E. J. (London South L)

Substitutions:

Callahan, R. V. (Brampton L) for Ms. E. J. Smith

Hennessy, M. (Fort William PC) for Mr. Bernier

Knight, D. S. (Halton-Burlington L) for Mr. D. W. Smith

Mitchell, R. C. (Carleton PC) for Mr. Barlow

Polsinelli, C. (Yorkview L) for Mr. Morin

Sheppard, H. N. (Northumberland PC) for Mr. Guindon

Clerk: Mellor, L.

Staff:

Richmond, J. M., Research Officer, Legislative Research Service

Witnesses:

From the Ontario Federation of Labour:

Wilson, G. F., President

Surich, J., Research Director

Individual Presentation:

Nagel, R.

From Bimini:

Marshall, M., Owner

Individual Presentations:

Ettinger, N. B.

Clubine, J.

LEGISLATIVE ASSEMBLY OF ONTARIO  
SELECT COMMITTEE ON RETAIL STORE HOURS

Wednesday, April 22, 1987

The committee resumed at 2:09 a.m. in room 151.

RETAIL STORE HOURS  
(continued)

Mr. Chairman: I see members of all parties and a quorum present. We will get under way and welcome this afternoon the Ontario Federation of Labour, represented by Gordon Wilson and Jo Surich, research director. Both are present.

Welcome, and thank you for taking the time to address us. You will have approximately half an hour starting from now; notwithstanding the fact we are starting late, you will have your full half hour.

Our format is such that you may wish to read through or summarize your brief, following which we would like some time for a question-and-answer period. With that, go ahead.

ONTARIO FEDERATION OF LABOUR

Mr. Wilson: Our brief is not a long one. It is certainly one that articulates previous policies of the federation, which I am sure many of the committee members are probably familiar with. I will read the brief--it should take only a few minutes--and then be in a position to respond to questions.

Mr. Callahan: Can you indicate what the exhibit number is?

Mr. Chairman: It is exhibit number 177.

Mr. Wilson: The Ontario Federation of Labour is the major trade union centre in this province, representing 800,000 trade unionists who, together with their families, make up an appreciable portion of the people of Ontario. The unions representing the retail workers are all affiliated to the OFL. Besides speaking on their behalf, we have reason to believe that the many thousands of workers in this field who are as yet unorganized share our views on this matter. We are against the extension of store hours in the retail industry.

For example, the chamber of commerce in Sudbury invited one of our staffers to address a rally opposed to the extension of store hours. This rally drew about 500 shop owners and workers opposed to such extensions, and we have an exhibit attached, which gives some press coverage on that matter.

We laud the majority decision written by Chief Justice Brian Dickson in the Supreme Court of Canada's ruling on Sunday shopping. In interpreting and applying the Charter of Rights and Freedoms, he said, "I believe that the courts must be cautious to ensure that it does not simply become an instrument of better situated individuals to roll back legislation which has as its object the improvement of the condition of less advantaged persons."

His argument was that retail workers do not constitute a powerful group

in our society. The economic position of those workers affords them few choices in respect to their conditions of employment, and they are in no position to stand up to their employer or seek work elsewhere. Thus, we should not forget that the object of the legislation is to benefit retail employees by making available to them a weekly holiday which coincides with that enjoyed by most of the community.

We and our allies fought for more realistic and fair legislation when this issue was first discussed before the legislation was enacted in 1975. In briefs of the coalition we belonged to, and in our own, we tried to warn the government of the day of the pitfalls in its draft paper that eventually became law.

In the interests of uniformity for the whole province, we argued that the province instead of the municipality provide for exemptions and that such exemptions be for resort areas rather than for tourist areas. These two provisions would have prevented the instances of seeming unfairness and discrimination that have ensued. However, we believe that the intent of the legislation is sound and the principle must be maintained.

The trend to more and more Sunday retailing is accelerating. It is now a distinct possibility that without realistic and enforceable controls, most stores will open on Sunday and late nights to meet the competition. Retail employees at present work long hours, during evenings, almost every Saturday and often through statutory holidays.

Since the vast majority of retail workers are women, a wide-open Sunday would only add to their already overburdened role in life. Sunday is the only day left that they can count on to pursue their own personal interests and spend time with their families, especially those having members of their family at work or school Monday through Friday.

The stresses of modern-day living--crowding, traffic jams, noise pollution, rushing to meet time deadlines, insecurity, a worry about unemployment and the problems of paying the bills--all of them are causing nervous disorders among workers. Extension of working hours or reorganization of work schedules away from the norm, encroaching on the workers' leisure time, will only aggravate the problems.

In some American cities where the retail industry is wide open seven days a week, its suppliers are also forced to work extended hours. There is chaos in the industry. No one is happy about it. The tragedy is that once a wide-open shopping week, and consequently a wide-open work week, is endorsed, there is no turning back. Because of increased competition, industry could not retrench. The consumer gets used to the so-called convenience and also resists a return to uniform hours.

This so-called public demand for extended hours is a convenient excuse by certain individuals to make a fast buck before their competitors move in. It is an irrational competition between merchants for the almighty dollar without any regard for the home life, the health or the wellbeing of the workers involved.

A wide-open Sunday will not give any boost to the economy because over time no more money will be spent, but costs will rise and higher prices will surely follow. Nor will it create jobs. As the competition increases, those businesses that could not stand the pace will fail and jobs will be lost. Instead of being a day of pause for recreation, cultural pursuits and family



life in common with the rest of the community, Sunday will become just another work day.

When the legislation was introduced a decade ago, labour and others warned the government about its weaknesses, in that its regulation was left to the municipalities. Again, in 1981, in a letter to the Solicitor General, the OFL president said, "The main problem, which you will have to deal with eventually, is the weakness in the legislation permitting municipalities to designate tourist areas, thereby circumventing the intent of the legislation which should have clearly provided exemptions for resort areas only."

If this were done, the problems that have emerged could have been avoided. The examples of discrimination in the application of the legislation and the difficulty of enforcing the law would not have arisen. It is not too late. Despite the public's frustration with the present ambiguous law, there is support for Sunday as a day of pause that should be secular and not religious in both purpose and effect.

There is a need for legislation applied uniformly by the province to safeguard Sunday as a day of pause, regulate holiday closings and provide uniform store hours as an aid to preserving family life in the interest of the workers involved.

The OFL proposes the following:

That the power to regulate store hours and closings for Sundays and holidays be removed from municipalities and put under provincial jurisdiction.

That the province enact uniform legislation allowing for minimal variations for camping and summer cottage areas and that the reference in the legislation to "tourist industry" be changed to "resort areas."

That special provision be made for gasoline stations on highways, drug stores selling prescription drugs and hygienic or sanitary products and for fruit and vegetable stalls on roadsides.

To protect the mom and pop stores, that the total area of permissible establishments for serving, selling, displaying and storage should be limited and that the establishments not be part of a chain or association as spelled out in the Quebec Commercial Establishments Business Hours Act of June 1, 1970.

That the total number of persons, including the owner or proprietor, operating such permissible establishments be no more than three.

That all other retail establishments, except those exempted above, be closed no later than 6 p.m., except Thursday and Friday, when closing time shall be no later than 10 p.m. Opening time for such establishments shall be no earlier than 9 a.m.

With these minor changes we can have legislation that is fair, equitable and, we believe, morally defensible.

I am now in a position, as is Mr. Surich, to respond to any questions that the committee may have of our presentation.

Mr. Chairman: I thank you for getting us your brief as early as you did and giving us an opportunity to read it in advance. I have four questioners.

Mr. Mitchell: I would like to ask the presenters, whoever chooses to answer, why you specify gas stations on highways and fruit and vegetable stalls on roadsides.

Mr. Surich: I will take the gas station question first. There is, obviously, a demonstrated need to supply those kinds of products to people, particularly to those travelling longer distances between cities, as opposed to the neighbourhood and town where people presumably can plan to have enough gasoline on hand to last a Sunday. I think there are logical reasons for making those kinds of commodities available. It is just like telephones working on Sunday.

The fruit and vegetable argument stems largely from the notion that the season during which locally produced goods are available in Ontario is quite short and that the capacity of farmers to sell it as directly, quickly and as freshly as possible obviously has to be maintained.

Mr. Mitchell: Let us deal with the gasoline stations first. What about the tourist who comes into Toronto, drives around Toronto with his family all day long, suddenly finds himself with about an eighth of a tank of gas and has to go out on the highway? Where do you equate the highway here in Toronto? How far would he have to travel? It appears that you have no consideration for the tourist who might be in that very position.

In fact, you can read in many newspapers in many communities where they reward residents of the community because they have helped someone. In many cases, it is because they have run out of gas. Now you are saying: "Do not have them open in the city. Do not let the current rationale apply. Just let them be open on the highway." That is blatantly unfair to the tourist.

Mr. Wilson: I can respond this way. I have been caught in downtown Detroit and have never felt that I was dealt with unfairly because I had to go out on the highway to find a gas station.

Mr. Mitchell: What if you did not have the gas to get there? That is the point I am making.

Mr. Wilson: You are right. I would have had a problem.

Mr. Mitchell: Exactly, and there are some areas in some places where it is difficult to stop and feel comfortable about it.

Regarding the fruit and vegetable stands, let us go down to the Niagara Peninsula where you have a great many of them all joined together in one roadside area. Are you talking about those? Would they be able to stay open?

Mr. Surich: Sure.

Mr. Mitchell: I gather that is because they are perishable items. Is that right?

Mr. Wilson: That is what Mr. Surich said earlier.

Mr. Mitchell: How do they differ from the supermarkets that have the same perishable goods, sometimes in larger quantities?

Mr. Wilson: You have a point, but what do the supermarkets that are not open on Sundays now do with their perishable goods? I would think that they attempt to plan their supply, relative to the hours they are open.

Mr. Mitchell: They do, but you are talking about putting these out on the highway now so as to avoid the competition that currently exists within the municipality. I suggest to you that if it is perishable in one case, it is perishable in another, no matter the amount of stock that is carried.

Mr. Wilson: That is not exactly true. The only distinction I could make is that you could argue that the person on the highway has to leave it in the field until Monday. That is not our objective. We are not really opposed to persons who grow vegetables on a limited scale having the opportunity to retail those on the highway. That is one situation that is surely considerably different from a large chain store operation like Dominion or Loblaws or any of the other ones, where they have people who are paid a salary to determine these kind of commodities, when they can be available and in what bulk, relative to what their marketing hours are.

Mr. Surich: Just to add to that, we currently make provision in Canada for a special tariff on imported fruits and vegetables during the harvest season in order to make it possible for our farmers to survive at all.

Mr. Mitchell: Exactly.

Mr. Surich: In the light of that, I think their selling activities at the roadside, which put them more directly in touch with the consumer than is normally the case in the supermarket, are a substantially different case from the supermarket selling fruits and vegetables in the normal conditions under which those things are sold, most of them, in turn, largely imported.

Mr. Mitchell: How would you relate, say, the St. Lawrence Market to something like a roadside stand, or do you feel you could not? As a result, that day will not be available to those farmers who grow their own produce, pick it daily and come in to the market to sell it, but their neighbour who just sells it in a little stand by the side of the road could do so.

Mr. Wilson: Let me just try to get a fix on where you are going with this one. Are you saying to me that your hangup with our presentation is restricted to fruits and vegetables?

Mr. Mitchell: No. I am talking about some of the points you made. I am talking about, for example--I am being the devil's advocate--do you ever go out to a market garden on Sunday to buy potted plants or bedding plants for your backyard, take the family out and make it a day's outing?

Mr. Wilson: No. I can say no honestly. It is unlikely that I do. I do not have a garden.

Mr. Mitchell: But the possibility is that if you did have a garden, you might just do that. What about playing a round of golf?

Mr. Wilson: Yes. Right. You have me there.

Mr. Mitchell: What about the Credit River, perhaps going out and renting a canoe for the day? All I am saying is that what we have here are workers who are involved in those areas who have to work as well. For many of them, their whole livelihood depends on that type of work. My issue with the



fruits and vegetables is that I do not think you can say because they are perishable one should be open and the other one cannot. I find that strange.

Mr. Wilson: Then let us go the other way. If I am following your line of logic here, if you extend that logic to the other extreme, what you are saying is that people ought to be able to buy fur coats on Sunday too.

Mr. Mitchell: I might not disagree with that as an individual.

Mr. Wilson: Then we know where you are coming from, and I have to disagree with you on that. I do not think it makes any sense. Let us talk about what is really necessary for people to have available to them on one day of the week versus what is necessary for people to have as a day of rest. On balance, what we are saying is that it is really not that necessary to go out and buy a head of lettuce in downtown Toronto on a Sunday morning.

Mr. Mitchell: It might be if you are suddenly faced with company.

Mr. Wilson: It might be if you did not have the foresight to buy one on Saturday, right? In the same sense that if I did not have the foresight to put gas in my tank, I have a problem too. It is interesting to see that you are coming from the point of view of attempting to provide these kinds of contingencies for people. I hope that attitude also extends to social legislation in our province.

Mr. Mitchell: Indeed it does, but my point is that I find that arguments pro and con this are very confusing arguments.

Mr. Wilson: I admit there are some problems in the approach, but I think you have to go back to the general principle. Are the majority of people in this province, certainly in the retail area, going to have one day they can count on to be with their families? We recognize that there are functions that are necessary in society because we do not stop living on Sundays either. Firemen, Bell telephone, police officers: those kinds of things we plan for.

Mr. Mitchell: Emergency type of service.

Mr. Wilson: Certainly. Transportation is another one, as is communications--all those areas. That can be put down as something that is necessary in the sense that it has to be available for people. On the other hand, I do not think you can make the argument in my example that a head of lettuce on a Sunday morning is necessary as to whether we make it through to Monday.

Mr. Mitchell: Only if you get faced with a load of company that comes in unexpected and unannounced and then try to deal with your wife, who is trying to make a salad.

Mr. Reville: There is the problem. You should make it yourself.

Mr. Mitchell: To get back to--

Mr. Chairman: Can I interrupt here, Mr. Mitchell. Are you going to be much longer? I have a long list of questioners.

Mr. Mitchell: I have one more question. To get back to the brief, what you are basically saying is that it should be strictly the province that designates the tourist areas and there should be no local control of that whatsoever.

Mr. Wilson: The designation should be in the hands of the province to ensure uniformity.

Mr. Mitchell: Okay. Thank you.

Mr. Philip: I never disagree too much with Mr. Mitchell; it would be considered sour grapes.

Mr. Wilson: Which you would buy on Saturday as opposed to Sunday.

Mr. Hennessy: You cannot buy the grapes on Sunday.

Interjections.

Mr. Philip: I wonder if I can ask you about the tourist industry comment. Do I take it from your comments on page 5 that the tourist industry designation for downtown Toronto or for the centre of Windsor would not apply and that those places would be closed on Sunday if we followed your recommendation?

Mr. Wilson: With the exception of those we have indicated and probably others, quite frankly, that others may deem as being necessary.

Mr. Philip: Should that recreation centre just north of Toronto, Canada's Wonderland, be open on Sunday?

Mr. Reville: It should never be open; it is a nonunion shop.

Mr. Philip: That is not the issue, though.

Mr. Wilson: Again we have to make a distinction between the retailing or marketing of a product as opposed to something that is an aid to people to enjoy a day of rest. Recreation is not one we are opposed to, nor would we suggest the Blue Jays should not play at home on Sundays.

Mr. Philip: Okay. I just wanted to make that understood. Bookstores and art galleries, including those that are private merchants who sell paintings, are to some people as much of a recreation as going to a Blue Jays game or going to Canada's Wonderland. We have had representation, which we understand is backed by the unions of the booksellers, that say bookstores are a form of recreation and should be one of the exemptions. Do you have any comments on that?

Mr. Surich: I can respond to that in part, because there is no easy response. I like books, so presumably that is recreation; somebody else might like wandering through Towers all day Sunday, and that is recreation.

The problem you have is delineating those things that are necessary in terms of people's lifestyles. Shopping in a shopping mall in the suburbs, or downtown for that matter, is not necessary on Sunday. Buying gasoline at the side of the road obviously is necessary, just as a number of other services are.

The Blue Jays playing on Sunday is part of what we culturally have decided is part of the recreational scene. I remember when I was much younger, there was a massive debate--I was living in Kitchener at the time--about whether there should be movies on Sunday. Ultimately, it was decided it was all right to watch a film on Sunday, because the values in the community over

time had changed. There was even a referendum on the question; people voted on whether these places should be open.

In a sense, you are making judgements about what the community values are. I would venture to suggest that bookstores probably do not rank high on the list of places that the community needs to have open on a Sunday.

Mr. Philip: So you are saying that, assuming I am not taking one of your credit courses but I am buying your book for recreation purposes, that is not a legitimate recreational activity.

Mr. Surich: I am saying you do not need to do it on a Sunday.

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Mr. Philip: Do you see any difference between a bookstore operated as a bookstore and an entertainment parlour that sells books that are a lot more expensive perhaps than what your books sell for, ones that are covered in plastic and so on? I guess what the booksellers are saying is, if you can buy porn on Sunday or if you can buy Penthouse magazine on Sunday, why can you not buy a Jo Surich political science book on Sunday? Can you buy that argument?

Mr. Surich: Again, my inclination would be to suggest that you could not buy the plastic-covered stuff on Sunday.

Mr. Philip: You would restrict it that way rather than opening it up the other way?

Mr. Surich: Yes.

Mr. Philip: One of the complaints we have had from both retailers and unions across the province is drug stores that are really supermarkets masquerading as drug stores. Is it your opinion that you would allow drug stores to sell only drugs and perhaps necessary hygienic products but all forms of sandwich meats and all that kind of stuff would be prohibited on Sunday?

Mr. Wilson: There is a bit of a problem there. If you allow the mom and pop stores to open, which have some of that type of commodity available, then I think you are in an area where it is very difficult to say to the drug store, which may be selling the same thing on the side--although I am trying to think of where one would--that it cannot do it.

Mr. Philip: We have run into drug stores, though--Herbies is an example in northern Ontario--that are in fact larger than a number of IGA stores and sell as many sorts of products; you can buy everything from cat food to sandwich meat.

Mr. Surich: I think you can impose the restriction we suggested to you that there should be no more than three people working there, which I think by definition might be--

Mr. Philip: What if they decide, though, to put one person on the drug counter and two people selling the--

Mr. Wilson: Let me try to answer the question. What we are trying to achieve with our presentation today is to impress upon the committee that our realization is the same as many of the people in this room. There are certain



commodities and processes that are vital to human beings seven days a week. You have to recognize that. There is no question about that.

On the other hand, there is an opportunity for people to try to use whatever the legislation's form finally is as a way of trying to open the door to gain, in their view, some form of competitive advantage over a similar enterprise in the same community. That is what I think we are trying to get at. Where it is not necessary, where somebody can actually get on until Monday without it in most cases and it does not cause any undue discomfort to an individual, then I think that ought to be excluded from the availability of being retailed on a Sunday.

I guess the real problem we have with this is that rather than dealing with specific commodities as we have been doing for the last 15 minutes, we see a potential that once you begin to allow certain retail outlets to open, then it is not a long time, in fairness to those others who are trying to observe the day of rest, that at some point they are forced into a position of having to be open.

If you allow it for a certain size, then what becomes a definition? Do we eventually get the Bay and the larger retailers, and then after they are open, the support groups that fuel that industry? How can you, after having allowed them to retail, then say to other people, "Well, we cannot be there to support that industry"? That is the real problem, that we do not back ourselves into a situation where people are forced to work on what has been a tradition in this province and in this country that Sunday is a day of rest. That is the problem we have.

Mr. Philip: I have one last question. One of the arguments that both management and some of the union groups that have appeared before us have made vis-à-vis the retailing is that if you are open seven days a week--whichever seven days and whether you are closed Saturday or Sunday--you are going to have to start to move towards more part-time staff because present labour laws do not allow people to work more than a certain number of hours without special restrictions, extra pay and whatever.

What you will end up with are perhaps more jobs but more people having marginal jobs. In other words, instead of having one person working a 40-hour week, you are going to have two people working 25-hour weeks. You do not have that contained in your brief, but a number of the union groups and companies that have appeared, including Canadian Tire stores, have argued that we will create a marginal labour group rather than a decently paid labour group working a full work week. Is that an argument you can accept?

Mr. Surich: Sure. In fact, it is not a matter of creating the marginal group; all you are doing is expanding it. The general trend in the department store industry and in the food store business is to move to more part-timers--not working 25 hours, by the way, but working much shorter hours than that--so there is total flexibility in terms of scheduling and so on. Without question, that victimizes groups that are traditionally victimized, women particularly.

Mr. Reville: Thank you for appearing. I am glad we scheduled some more time. I do not want to refer to the gasoline issue--I am sure you are aware that many municipalities have other bylaws that deal with gasoline anyway--but I do want to ask you about your fourth recommendation on page 5, wherein you suggest that protection of mom and pop stores could be had if we prohibited chains from being among the exempted groups.

Is the legislation you have quoted to us, the Quebec Commercial Establishments Business Hours Act, equivalent to our retail holidays legislation?

Mr. Wilson: Do you mean in terms of its restrictions?

Mr. Reville: No. Is it the same type of legislation? Is that their Retail Business Holidays Act?

Mr. Surich: Yes. But it is specifically and deliberately biased in favour of the small, owner-operated store, as is the retailing of beer in Quebec, for example.

Mr. Reville: It is similar to the beer and wine legislation, which of course got challenged.

Mr. Surich: Yes. It is biased, no question; but that may be desirable under some circumstances.

Mr. Reville: Do we have a copy of that legislation, Jerry?

Mr. Richmond: It is in the issue paper that my colleague Catherine Evans did. She compares that Quebec legislation. I can share that with you.

Mr. Philip: Has there been any challenge under the Charter of Rights on that particular piece of legislation?

Mr. Callahan: They are not subscribers to the charter and the Constitution yet, so there would not be any charter challenge.

Mr. Reville: No, but I do recall that one of the major chains challenged the beer and wine stuff somehow.

Mr. Surich: That is correct.

Mr. Reville: I do not know how they did it, but they were successful.

The other major recommendation you make relates to the municipal override in respect of tourist designations. That is a recommendation that has been made to us by quite a large number of groups, but this morning when Mayor Eggleton was here, he made a fairly sturdy pitch that municipalities should be allowed to continue making these kinds of designations. I wonder whether you would amplify your recommendation a bit. Do you have particular municipalities in mind, or is it a general concern that it is too loaded?

Mr. Wilson: I think what you find is the opposite of conformity throughout the province.

Mr. Reville: Yes, that is true.

Mr. Wilson: I guess it could be argued that this issue is beyond being a provincial issue; it is a national issue. But the focus right now is in this province. The danger you run is that you bring an imbalance to the application throughout the province if you allow municipalities the ability to make changes based on whatever the political persuasion may be at that time or whatever the circumstances are. In effect, the principle can get somewhat punctured as you go down the road. It seems to me that to deal with this adequately, you have to do it on a provincial basis.

Mr. Reville: Would that mean the province should designate some parts of the province as tourist areas?

Mr. Wilson: I think the government of the province ought to be in a position to consider applications from whatever municipality they may come as to what determinations should be made relative to what is happening across the province as opposed to a single municipality.

Mr. Surich: To add to that, I think it is generally going to be the case that the smaller municipalities are especially likely to be subject to enormous pressure to change their designations and to open up the thing. If you have a cluster of three or four smaller cities and those brothers from Edmonton arrive and put enormous pressure on one of them, then the others will instantaneously be under the same pressure to open up, simply because their merchants are going to be losing business very rapidly to the other communities.

I think there is a real potential for large retailers to whipsaw the communities into changing the rules and loosening them up over time. That may not be a problem to the city of Toronto, because it is larger, but it is sure going to be a problem almost everywhere else.

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Mr. Reville: Certainly the debates I was involved in at the city of Toronto reflected very much the kinds of things we have heard during these hearings. In fact, the pressure was enormous, particularly from Harbourfront, which succeeded in getting a designation; but Eaton Centre also put it on and did not.

I guess I have some difficulty with your recommendation only because it seems as a principle that if a municipality with an interest in the economic life of its community were making a serious and genuine tourist push, you would want it to have the ability to make that decision. I guess they could advance those arguments, however, to some kind of provincial body, which then would use some kind of criteria to measure them all and which might be less susceptible to pressure, although I doubt it would be really less susceptible.

Mr. Wilson: Essentially, though, is that not the problem in Toronto? We have Harbourfront now open, and the merchants on Spadina look at that and say, "If them, why not us?"

Mr. Reville: Absolutely. You are quite right.

Mr. Wilson: Then it is the people on Bloor Street and then beyond that.

Mr. Reville: But they have all been told no. The interesting thing is that in the year since this legislation was available, they did Markham Village. Then they did Chinatown West. Then they did Harbourfront and hotels. But they turned down Yorkville and they turned down the Eaton Centre. Mind you, the politicians were squirming a little.

Mr. Wilson: I do not understand that. From a tourist point of view, what distinctively is different between some of the areas that were allowed to and some that were not?

Mr. Reville: I agree. It is hard to rationalize the choices.



Mr. Wilson: This is the problem you have, and I think it would be of assistance to a number of municipalities if the province in effect did have the ability to do that.

The other one that has been advanced to me by a number of small merchants is, they cannot understand why some of this thrust is coming anyway. They look at it in very simple economics. There are X number of dollars out there in the community to be spent. Adding a seventh day does not really increase the amount of consumer dollars by one seventh. It just does not follow, because it is not a practical application.

Second, I would think a number of small retailers from malls, for example, who may have been involved before this committee in making presentations, really find themselves between a rock and a hard place because some of their leases say that if the large chain is open, they have to be open, but they do not want to be open. They are really caught in a situation that binds them. There are a considerable number of those situations throughout this province.

My guess is that most small retailers do not want to be open on Sunday. The thrust of this one is coming from where? It is from the odd small retailer who has a peculiar business and the big ones. When we get to the big ones, that is obviously where we are vitally concerned, because there is no question in my mind that people will be forced in some way to work overtime. You can take a really nice, high-road position, if you are The Bay, Simpsons or whoever, and say, "Nobody will be forced to work overtime." That will last exactly until the time they do not have enough clerks to put on their counters and that will be the end of that voluntarism.

Mr. Chairman: Can I just interrupt at this point and point out that--

Mr. Reville: I am finished. Thank you.

Mr. Chairman: --we have expired our time and we have three more questioners. I would ask you all to be very brief if you could.

Mr. Callahan: In reading through the brief, I gather you addressed the question of individuals whose religious faith requires them to remain without transacting business on a Saturday. We heard from the Canadian Jewish Congress this morning, and although I have not been here, I am sure we heard from other groups that treat Saturday as the Sabbath as opposed to the Sunday. It is my understanding that under the existing legislation there is a provision that if a person does not transact business on Saturday, he can do it on Sunday. Although it is not in your brief, I would hope that you support that.

Mr. Wilson: Yes, but they would be mostly family-owned operations as opposed to large retailers.

Mr. Callahan: They could or they could not be. They may not fit into the mom and pop store; they may fit into something--

Mr. Surich: But under the act they are small ones, are they not?

Mr. Philip: They are under the act, yes.

Mr. Callahan: I would certainly hope that would be--

Mr. Wilson: The other thing you should be aware of is that collective agreements occasionally cover people of faiths that observe days that are not occurring on Saturdays or Sundays and we have made provisions contractually for those people. We are not going to say that someone does not have the ability to close his business on the day he observes his religion. I guess your question is, should they have the right to open on Sunday?

Mr. Callahan: That is right.

Mr. Wilson: The act already provides for that, and we have no objection to that.

Mr. Callahan: Okay, you are not suggesting that be eliminated.

You know where I am coming from. I believe that a single day should be retained because I think we have eroded our family values significantly already without doing that on Sunday. Have you reflected on it in terms of the Charter of Rights? I do not think that Legislatures, or municipalities for that matter, have the freedom they once had in the light of subsection 15(1) of the charter. If in fact we agree with your proposals or proposals of other groups, they are certainly going to be tried on for size in terms of challenges as to whether they are discriminatory or whether they meet the test of subsection 15(1) of the charter.

That is why I have some difficulty with your suggestion that the province have the say as opposed to the municipalities. It would seem to me that municipalities are closer to the people, have a better understanding of their needs and would probably more successfully be able to fit any challenge within section 1 of the charter--that it is a reasonable limit in a free and democratic society--whereas if you get a provincial board, quite apart from the bureaucracy that you build up, which we do not need, to administer that, you would have those difficulties.

Mr. Wilson: At this point, I guess what you are really saying is you have a fear that, from your position, the charter may be interpreted from a weaker position if it is in the hands of the province as opposed to a municipality. That is speculation. I cannot speculate on what the courts are going to do. We can only take our best guess.

In general terms of the charter, I think that as Canadians, clearly our way of life is going to be affected considerably as, for the next decade or perhaps two decades, there will be challenge after challenge to the charter as various interest groups advance their arguments. I still think it is certainly worth while for the province to take the position to bring about some measure of uniformity to maintain and embed in the psyche of people who may not yet have it that Sunday is a special day in Ontario and has to remain as such.

Mr. Callahan: I subscribe to that, but as I say, if you put it at the provincial level, people are not as close to that level as they are to their own municipal level. They perhaps do not feel they have as great an access to a senior level of government as they do to their own municipal council. In addition, they get the opportunity, every three years, to punish their local representatives if they have been unfair to them, whereas in the province it may take four years, and perhaps even five if it is a majority situation.

Mr. Wilson: Or two.

Mr. Callahan: Or two, yes.

You have used Quebec as an example. I think it has already been indicated that Quebec, because it has not become part of the Constitution, is of course not subject to the same subsection 15(1) disabilities as is the case in Ontario.

Mr. Wilson: But the principle of the Quebec act is important for us to recognize, and it was essentially heading off any movement towards the opening of retailing operations on Sunday beyond that which people would normally consider to be of necessity to maintain life on a Sunday.

Mr. Callahan: Finally, just one quick question. The flea market--

Mr. Wilson: Or the garage sale.

Mr. Callahan: --seems to have become the novelty of this last five years or so. As you know--at least my observation of a flea market is that it is normally a single individual or perhaps two individuals who rent space in a particular mall. Judging from the people who flock there, it seems to be almost a form of entertainment, just as a Toronto Blue Jays game or whatever is.

Mr. Wilson: A park.

Mr. Callahan: I do think you have not addressed that. What would be your approach to those?

Mr. Wilson: Honestly, I have not really given it a great deal of thought either. If one thinks of what the flea market definition was supposed to be, it was a number of people who had small wares they wanted to trade.

Mr. Callahan: Giant garage sales is what they were supposed to be.

Mr. Wilson: That is exactly right.

Mr. Callahan: It turned out to be more than that.

Mr. Wilson: It turned out to be different. You could certainly impose restrictions upon that kind of an operation. Quite frankly, I have not really turned my mind to it. I am not too sure where that falls in. I mean, there are so many categories. Whether we are talking about a head of lettuce in downtown Toronto or the garage sale, I think what we are trying to do is to guard the principle of maintaining Sunday as a pause day, as much as possible.

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Mr. Hennessy: I think this is a serious situation. It does not look like that much now, but eventually it could affect a lot of people. In my riding it would.

The mayor of Toronto was here this morning, and I would like to have your opinion on how you feel about this, that all retail employees receive at least a day off each weekend, with the choice of the day being up to the employee.

Mr. Wilson: Except that Mayor Eggleton does not have the authority to designate that; neither does he have the authority to make sure that it is



maintained. That is the relationship between the employer and the employee. How does he propose to intervene in that situation; by provincial legislation, saying that an employee has the right to one weekend? What did you say, one weekend a month?

Mr. Hennessy: One weekend day off each week, either a Saturday or a Sunday.

Mr. Wilson: How the hell do you police that? Where there is a union present I think you can do it. Where there is a good-faith employer it will be done, but there will be a great number of people out there for whom I would suggest to you it is impossible to police that.

Mr. Hennessy: If you have an agreement with the union, then you can stipulate in the agreement that spare people can come in on a Saturday or a Sunday.

Mr. Wilson: It depends on the collective agreement arrived at between the parties. It is interesting to note that, I would say, the preponderance of the presentations before the Toronto city council were in opposition to retailing on Sunday.

Mr. Hennessy: You mentioned that government should eventually be requested to consider a plebiscite at the next provincial election with respect to Sunday opening.

Mr. Wilson: My guess is that in most of rural Ontario, Sunday would be upheld as a day of pause. In Toronto, it is probably cut down the middle.

Mr. Hennessy: Then you have the people in the province of Ontario fighting against one another to some extent.

Mr. Surich: You will have them debating flea markets.

Mr. Wilson: A lot of other things would creep into this. If they are really serious, you could have people coming at you the other way too and saying that the legislation as it is interpreted at present is far too lax. For example, there would be the people attacking the fact that people go to a ball game on Sunday.

Mr. Hennessy: Or the racetrack.

Mr. Wilson: Even the racetrack.

Mr. Hennessy: So if that is the case, if they are going to legislate the racetrack, they will say it is a business. Why not legislate the Blue Jays and the Argonauts and the Maple Leafs?

Mr. Wilson: It depends whether or not the Leafs are in the playoffs.

Mr. Hennessy: Oh, yes, I think they will be in it.

Mr. Shymko: I wanted to ask Mr. Wilson his opinion on another Wilson, Madam Justice Bertha Wilson of the Supreme Court, who dissented with the Supreme Court decision in December of last year. I thought Mr. Callahan's question to you would have been a little more specific as to the concerns raised before the committee.

Mr. Callahan: I am just a newcomer on this committee.

Mr. Shymko: The concern raised before this committee is an aspect for those who are following religious denominations and faiths that demand that they close on Saturday, such as the Pentecostals or those of the Jewish faith. That principle is in the act. The discrimination comes in that, if you are of a faith where, because of religion, you close on Saturday, you are allowed to open on Sunday, but only if you have fewer than seven employees and only if your business is of less than 5,000 square feet. They point out that for someone for whom Sunday is a day of rest and Saturday is a working day, there is no limitation. Whatever the space or the numbers, you operate on Saturday and you close on Sunday.

The converse aspect is completely discriminatory, because there you say that if you have 10 staff employees and you have 10,000 square feet, you cannot open your store on Sunday, despite your religion. Madam Justice Wilson pointed out that this is a fundamental discrimination on the basis of religion and on the basis of minority rights.

I just want to point out to the Ontario Federation of Labour that with your record as a champion in fighting discrimination and in promoting civil liberties, you should provide a great deal of moral support in eliminating this inequity, as the city council of Toronto has provided that leadership in its presentation today and I just wondered if you could comment on the fundamental discriminatory aspect of the present act, and would that be a problem for you?

Mr. Wilson: My thoughts are, the act, the way it was drafted, probably recognized that if you have a small operation and you want to observe that day as your day of rest or, as a result of your religious beliefs, the day in which you want to stay home and practise your religion, it would necessitate then closing your operation. With a larger enterprise, you may not personally be affected by that. Your business can operate even though you are at home observing that day. Not every business person is at his place of business every day of every week.

Mr. Shymko: Apparently, if someone has a big operation and closes on Saturday--

Mr. Wilson: No, but I mean 10 people, for example. If you have a staff that size, then surely you are not prohibited from observing your religious day.

Mr. Shymko: Oh, absolutely. You are not prohibited as the employer, nor are the employees, but they suggest that we amend the Employment Standards Act so that no employee will be forced to work in that retail establishment whose owner may be of the Pentecostal or Jewish faith and who wants to open on Sunday; that the employees not be in a subliminal way or blatantly open way discriminated against by being forced to work.

Mr. Wilson: But is that not the other side of the coin? The moment you do that, then you are discriminating against the people you are forcing to work.

Mr. Philip: The Pentecostals want to close on Sunday, Yuri.

Mr. Shymko: Well, they recommended an amendment to the--

Mr. Wilson: Why would an employer who is of a faith that celebrates its day on Saturday feel compelled to close his establishment on that day?

Mr. Shymko: Why not?

Mr. Wilson: That is not the question. Why would they feel compelled? I am not aware of any tenet in either of those religions--

Mr. Shymko: Nortown Foods on Eglinton and Bathurst; that is going before the Supreme Court.

Mr. Wilson: I am not aware, in either of those religions, and you can correct me if I am wrong, where they are compelled to do so by faith.

Mr. Shymko: They are compelled by their own faith and their own conscience.

Mr. Wilson: There is a distinction, I think, Mr. Shymko, between your observing a day of faith yourself personally and then also saying your business must observe that day.

Mr. Shymko: But is that not what Christians do, by closing their operation on Sunday?

Mr. Surich: Can I address that point? I think that, in a very profound sense, we are mixing up two different issues. One issue is the question of religious freedom, and I think it is the case that in "Christian society" in this province, Sunday happens to be the day, because that is the way we grew up as a society. It is Sunday whether people happen to be attenders of the local church or not.

Mr. Shymko: And Jews accept that.

Mr. Surich: It is the day, and so you have this question of discrimination which revolves around different religions, and I think that needs to be dealt with and, presumably, can be dealt with. To some extent, it is dealt with in the existing act.

You have a separate issue, which is the issue of large retail establishments, malls and department stores and so on, which wish to add a further day to their hours of operation in order to give them an advantage over smaller competitors, and I think it really needs to be put that crudely. So they hitch that argument to the question of religious freedom, and I think that is a really false and, in a sense, dishonest way of making that argument.

Mr. Shymko: I understand you support the status quo and you do not want to change that, and you accept the discriminatory factor as it is present in the act?

Mr. Surich: Yes, I think so.

Mr. Shymko: That is very unfortunate. I would have hoped that you would have provided some leadership in eliminating that discrimination, but that is your view.

Mr. Wilson: I am sure, then, when we have other forms of discrimination we are attacking, you will join with us?



Mr. Shymko: I thought it was well presented by the Canadian Jewish Congress and other people, and reasonably presented, I think.

The other question I have--

Mr. Chairman: I will just point out, if I may, that we are half an hour behind time. Is this your last question, Mr. Shymko?

Mr. Shymko: I have a last question, and that is related to your definition of resort versus tourist. You would suggest that we eliminate the designated tourist area and substitute or concentrate instead on what you call a resort area. What is a resort area versus a tourist area? Can you sort of give me an illustration?

Mr. Callahan: Turks and Caicos.

Interjection: What did you say?

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Mr. Shymko: I guess Harbourfront would not be a resort area nor would Chinatown be, nor the downtown area of Windsor and Sault Ste. Marie.

Mr. Wilson: It is a problem. I think the concern is the corporation. To use an earlier example: Harbourfront is designated, therefore why cannot the person next door? You could argue that is a form of discrimination, as equally as the one you tried to make with me on the religious discrimination. I think that where it is clearly commercial, and not necessary, and serves a purpose other than simply making sure that necessities are there for people who are, for example, tourists, or it is not recreation, then why should it be open on Sunday?

The other side of that coin is, you are trying to make that case but you are not showing a heck of a lot of compassion for people who are compelled to work on those days.

Mr. Shymko: I have a lot of compassion for people who are working, and who have taken the freedom of choice to work on Sunday.

Mr. Wilson: Oh, they have taken the freedom of choice. Would you guarantee that if they said to their employer, "No, I do not want to work on Sunday," that you would be there on Monday morning fighting for their jobs? When did you do it?

Mr. Shymko: One would have to make a survey, and I would sort of want to ask the unions in Windsor whether they would support your suggestion to close the downtown area on Sundays completely and not give the tourist options.

Mr. Wilson: Tell me what is open in downtown Windsor that is either a collective agreement outside of those things we recognize as a reasonable standard in society--communication, transportation, hospitalization and those sorts of things?

Mr. Shymko: Are the local unions in Windsor supportive of closing down, eliminating the downtown area?

Mr. Wilson: What is it you are referring to? You said those areas that are open. I am asking you what they are, where the unions have entered into a collective agreement? That was your statement.

Mr. Shymko: There is a part of the downtown area of Windsor which is designated as a tourist area and has been operating with the option of opening Sundays for years.

Mr. Wilson: Which you inferred had an involvement, through some relationship, as a union with the employer. I am asking you to name one.

Mr. Shymko: I am just trying to tell you that there are--

Mr. Chairman: I am going to interrupt you here, gentlemen, and exercise--

Mr. Shymko:--apparently people who are working in Harbourfront, and lots of jobs may be lost if it closes.

Mr. Chairman: Mr. Shymko, order please. You are getting into a squabble here.

Interjections.

Mr. Chairman: Gentlemen, please. Can I just interrupt for a brief minute? Mr. Shymko, I--

Mr. Shymko: Well, it has been answered.

Mr. Chairman: Thank you very much.

Mr. Shymko: We will have the territory of the member for Muskoka (Mr. F. S. Miller) opened up as a resort area and, I guess, close down Harbourfront, Windsor and so on.

Mr. Chairman: We have four or five further delegations for the afternoon, and I think we should move on.

Mr. Wilson: Frank's going to need something to do.

Mr. Chairman: Gentlemen, thank you very much for your time.

Mr. Wilson: Thank you, Mr. Chairman, and thank the members of the committee.

Mr. Chairman: Okay. Next we have Rudy Nagel. Is he present? Would you come forward, sir?

Interjections.

Mr. Chairman: Mr. Mitchell, I wonder if you would allow them to leave and perhaps carry on your conversation outside. Thank you.

Welcome, Mr. Nagel. I understand you do not have a written brief for us. I apologize for the delay in getting to your presentation, but we are now prepared to go ahead with your presentation. Please feel free to make what remarks you wish, following which we may have some questions for you. For everybody's help, perhaps, you could indicate whether you are representing a group or not, or what your particular interest is in this issue.

## RUDY NAGEL

Mr. Nagel: Honourable Chairman, members of the Legislature, ladies and gentlemen, would you like a short presentation or a long one? If people had attended the Christian church services on the week before Easter, they would have been presented with alternative readings, the short reading of the Passion and the long reading of the Passion. I am going to give you the short rendition of my presentation.

Alderman Layton, who is not in favour of businesses operating on Sunday, confuses the issue of Paul Magder Furs being open in Chinatown. He confuses the issue because it is a cultural issue, and it is only incidentally geographical. It is a matter of an ethnic people operating within a geographic area.

Again, if Harbourfront is allowed to be open then there is no reason why the Eaton Centre should not be open. If the Eaton Centre is open, then there is no reason why every other store should not be open. It makes no sense to have a store within a store. If you are in buying a loaf of bread, why should a rope separate you from that loaf of bread and the toaster with which to toast it?

We have two municipalities in Ontario, one in which the people voted consistently in opposition to Sunday hours and the other in favour. In the course of time, the municipality that declined found that so much of its business was going to the other municipality that was open that soon it, too, driven by economic forces, voted to be open.

There are two roles the government has to play--there are many more but I will mention only two--as an assessor and collector of tax. When a finance minister has recognized that he or she has made a loophole, then in the next big budget the finance minister merely closes up that loophole. It is not so with government in dealing with cultural issues.

When government deals with cultural issues, two things happen. When a loophole is made, either all other businesses try to get into the loophole so that what was once a loophole now becomes a tear or other loopholes have to be opened by the government because of the rationale of business. "If them, then why not us?"

I am summing up by saying to cut back on the legislation of loopholes. Make only those loopholes of convenience stores that are divided with an identical premise that is taxed for municipal purposes with those that are operated as a municipal store and such other seasonal tourist businesses as camping, fishing, skiing, garden centres and so on.

You now have had the short presentation. The chairman asked me to identify myself. I am the editor and publisher of the Christian Socratic, a quarterly, an issue of which the members received. I do not know how many of you read it. However, I am going to be treating this matter of leisure and I will take as a starting point what President Roosevelt said in 1919, faced with an American people who had just become aware of the reality of the Grand Canyon when it was made a national park. He said: "Leave it as it is. You cannot improve it. The ages have been at work upon it, and man can only mar it. What you can do is keep it for your children and your children's children."

Do we have a mountain? Do we have the depth of the sea? Do we have caverns, canyons or caves? No, we have an issue of people. In the article in



the longer treatment of this question of leisure, I am going to draw heavily on the writing of Josef Pieper, a German Catholic theologian, only incidentally Catholic because this question concerns Protestants, Hindus, B'hais, Jews and Muslims because it is a question for people of the one Creator.

If anybody would like to ask me any questions about that now, if you cannot wait for the next issue, I would be glad to provide any answers that I might be able to.

Mr. Chairman: Thank you very much, Mr. Nagel. Do we have any questions of Mr. Nagel?

Mr. Philip: I have read your publication. One of the questions I have is, from your background of comparative religions, would you agree that most nations with the exception of the United States have a common day of rest? It may be Saturday, Friday or Sunday, but with the exception of the United States, there is--

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Mr. Nagel: As far as I know--

Mr. Philip: Perhaps there are some of the Latin American countries that have marginal economies, but most countries close down on Sunday, including the Soviet bloc countries that are officially atheistic.

Mr. Nagel: I only know that in Israel there is agitation for opening up Sunday. What the resolution of that has been, I do not know. I might say further to the question that I believe the society from which you come, comes first. If I were living in Israel I would say, "God is worshipped here. I am not going to become a Jew but I am going to live and recognize God in that society. I will certainly not do business on that day of rest for them. I will, in addition, not do work on Sunday." So I think we have to recognize that we are stuck with a charter, a straitjacket that leaves us without morality. It only has one morality and that is law, and that is the pragmatic. It is up to you legislators to be the leaders, not to settle questions just by polls but to stand up for what you believe in, for principles by which we must live.

Mr. Chairman: Any other questions? If not, thank you, Mr. Nagel, for your time and presentation this afternoon.

Mr. Nagel: You are welcome.

Mr. Chairman: Next is Ms. Marshall. Is Ms. Marshall present? She has presented us with a written brief, number 507. Ms. Marshall is a store owner in the Beaches area. The store is called Bimini. Is that correct?

Ms. Marshall: Yes, it is.

Mr. Chairman: Welcome this afternoon. As you have seen, you may wish to read through your brief or summarize it, following which we will have some questions for you. Please proceed.

MARILEE MARSHALL

Ms. Marshall: My brief is very short and I would prefer to read it, if I might.

Mr. Chairman and members of this committee, I am speaking to you on behalf of Bimini, a retail clothing store that has been in operation for nine years on Queen Street in the Beaches area of Toronto. Although I am chairman of the Beaches Business Improvement Area and sit on the executive of the Beaches Business Association, both of which groups you have heard from, I have chosen to speak to this committee simply as a small business owner.

My husband and I decided to open our store in the Beaches nine years ago. Even then it was clear that the area could not help but grow, and because of the natural attractions, the beaches, the boardwalk, nature trails and beautiful residences out there, Queen Street would one day thrive and become a popular shopping area, first to residents, and hopefully eventually to others living in Toronto and outlying areas.

We were slightly naïve in that we did not realize it would be a long, slow process, long Februarys and Marches in the winter with no walk-by traffic at all, waiting for others to begin fixing up broken down buildings and fashioning them into attractive stores that could compare with others in the city, waiting for the area to evolve with stores coming and going, opening and closing, into a retail strip with the diversity of stores, restaurants and service establishments that would make it an interesting, attractive shopping area. We were successful and the wait was worth it.

Nine years later--if you know anything about that area out there--developers are moving in, much to the residents' chagrin and serious dollars are pouring into our area.

However, first things first, over these nine years we have grown slowly but surely, operating our little mama and papa business while raising our children in the Beach.

Three years ago in the spring, we would walk or drive down Queen Street and on a nice Sunday the streets would be lined with people. All of a sudden it was happening. A handful of other businesses--some of them our competitors--had their doors open to these people and were, of course, doing business. We decided to open.

Our growth has been healthier over the past three years and Sundays came to comprise 20 per cent to 30 per cent of our weekly business. Through my association with the business groups, I have found that generally Sundays made up 20 per cent to 30 per cent of everyone's business in the Beach.

We are an interesting case in that many of our residents and a few businesses that opened last fall thought the Beaches was a designated tourist area, and in the case of the businesses, their projections were based on that, unhappily. It definitely is a tourist area, although not designated so.

In December, the bomb was dropped on the retailers in the Beaches. Many were so confident of the way the Supreme Court decision would go in Magder's case that they actually threw away accumulated summonses. In January, a rushed meeting was called and a group of business people met to plan a course of action. What I saw as I looked around at my fellow merchants, friends and neighbours was fear that if their businesses could survive Sunday closing, many would not be able to survive the fines that we knew would be forthcoming or the legal expenses to fight.

Imagine, their crime was opening their doors to an audience that was there, waiting to shop, working an extra day--it was not really extra, because

most businessmen and businesswomen I know do not get any full days off--employing more people and paying more in retail sales tax in order to keep their businesses alive or to have them grow. Now they can be fined--in fact, must be fined and some of them seriously fined--for these offences. These terrible people illegally opened the doors of their own stores against the law, the Retail Business Holidays act, which is a much better name for the old Lord's Day Act, and now must pay.

Back to my point, some of us have businesses that can sell without the benefit of Sunday business. Some of the people out there do not. Some of the businesses that have been closing on Sundays since January are dying now. Beaches school kids, who have only two days they can work, had to be laid off. Regular full-time and part-time staff were laid off or had their hours cut; not only sales clerks but also assistant managers, shipper-receivers and bookkeepers. Thirty per cent of one's business makes a big difference. We had to cancel orders for spring. Many of the businesses out there had to cancel orders because they could not handle the inventories without the Sunday trading.

I do not have all the answers here for you. I wish I did. I am just happy to have the opportunity to speak with you candidly respecting this issue. Frankly, I am confused. If we are talking about a religious holiday issue, I have trouble with that. I went to church, took my kids to Sunday school and worked a half day. No one in our area was open before noon. I do not consider that I was less a Christian because I elected to provide a service to my customers who wanted it after their church services.

If it is an employment issue, talk to the people who have been laid off or have taken cuts in hours. Every one of our people wanted to work. We had one young fellow who did not want to work on Sundays; we hired him anyway. We gave him other hours. We all know that bus drivers, postal workers, taxi drivers, airplane pilots, policemen and sales clerks in our competitors' stores located in designated tourist areas work on Sundays. It seems that only we retailers not in designated tourist areas are not allowed to employ people.

If we are worried about our potential customers having a retail holiday to spend one day a week with their families, I would like to say that a few short blocks from my store Greenwood Race Track is doing a booming business, and my friends, neighbours and customers never take their families there. I am a fan of racing. My dad has race horses. We are a very short distance from there and I know that most of my customers would rather shop than go to the racetrack and gamble.

You may be interested to know that with practically all the stores closed in the Beaches area due to the Supreme Court decision, there has never been so much traffic on Sundays, and I am talking about February and March this year. I have never seen it so, not in the heat of the summer last year. Many residents would support Sunday opening--in fact they are coming out in support of Sunday opening--simply to give those tourists, as they call them, something constructive to do with their leisure time. As it stands, the Beach residents consider these people loiterers.

Some of you gentlemen might be surprised to know just how many people consider shopping an important recreational activity. I have a clothing store. I have clothes falling out of my closet. When I go down to the United States and my husband goes golfing, I go shopping for shoes, belts and things like that.



If this is a political issue, why do we have to pay out our hard-earned dollars in fines just because the Retail Business Holidays Act is a political hot potato and nobody seems to want to deal with it?

Many residents support us; our employees support us; our customers support us; the tourists support us. If they did not, why would any of us even want to open on Sundays?

1520

Mr. Sheppard: I must congratulate you. It was a short and very well put together presentation.

Do you think you would do more business if you were to be open seven days a week instead of five or six days a week? The reason I am asking is we only have so much money to spend. I know that if your competitors open, you should be open for business, but is it really necessary for you to be open seven days a week? If you want to be open seven days a week or if you want to be open on Sunday and be open five days, why could you not close on Monday and Tuesday? I am not saying I am against it or for it.

I am a dairy farmer and I work seven days a week. I have to get up at 5:45 or 5:30 every morning and we have to milk cows twice a day regardless. I wish we could shut them off on the weekends or two days a week, but is it necessary for you to be open seven days a week?

Ms. Marshall: In our area it is necessary. We are an area very similar to Harbourfront and all the same criteria apply. They got their tourist designation for probably all the same reasons we should have a tourist designation, if the city so decides or if the province so decides. In our area, we get a whole different group of people down there on a Saturday and Sunday from Monday, Tuesday, Wednesday, Thursday and Friday.

I told you that it was 20 per cent to 30 per cent of our business. Generally, it is more. In the summer, it is way more. This February and March there have been more people down there than I have ever seen before. Last summer, although our Sundays were never better than our Saturdays, our Saturdays and Sundays were definitely the best through the week. I know there is a big difference. That seventh day out there in certain areas makes a big difference. I am talking 30 per cent. That is a big difference to our business. People are dying on the vine out there and it is because they have to close on Sundays.

Mr. Sheppard: Take even 20 per cent; that is a difference in a lot of businesses whether you make it or whether you go broke.

Your comment on February and March of this year: We had an exceptionally good spring and with February and March being almost like spring or summer, naturally you would have more business. If next year in February and March the weather is bad, I cannot see your having the tremendous business you had this year.

Ms. Marshall: We had a good February and March last year. My figures are not all that much over. They are a little bit under right now, but if I had my Sundays, they would be just marginally over last year. We had some good weather last year. The big difference in the Beach area is the racetrack opening. That is the difference in the traffic. I have an idea that a lot of gentlemen come down, go to the track--

Mr. Sheppard: And their wives go shopping.

Ms. Marshall: We merchants, if we had our doors open, would get the wives and the children.

Mr. Sheppard: I live on the south shore of Rice Lake. There is just a road allowance between my farm and Rice Lake. I have not been fishing on Rice Lake for 10 or 12 years, but people flock in there from 100 miles away because they want to be close to the water and they want to go fishing.

One last question: Do you think Sunday shopping should be legislated by the municipality or do you think it should be legislated by the government?

Ms. Marshall: I would love to see the government take a position on this one. I was hoping that when the Supreme Court decision came down the government would just jump right in there and realize what was going on.

Mr. Chairman: So were we.

Ms. Marshall: There are so many sides to this issue. I think the city would be very hard-pressed to designate tourist areas and come out fair to everybody. I would like to see the government make a decision that would affect everybody and I would like to see it made fairly quickly before we lose more businesses. I think you should realize that it is a serious concern to many of our little guys.

Mr. Reville: You are the chair of the Beaches BIA?

Ms. Marshall: Yes, the Beaches Business Improvement Area.

Mr. Reville: How could it have been that some of your membership thought that was a designated tourist area?

Ms. Marshall: None of our members in the business improvement area did.

Mr. Reville: This was just some people talking about it.

Ms. Marshall: Maybe some of the members. The business improvement area is a geographical area. These new stores that move into it are just there. It is a designated area, the city collects taxes, and you are able to use it to do improvements or whatever.

Mr. Reville: Right. I know how it works.

Ms. Marshall: So some people moved into that area. All the stores were open out there, or most of them were open out there. I realize it is very stupid and they did not do their research very well, but they moved in there honestly thinking that everybody is open and they based their projections on Sunday opening. It made a big difference when they had to close on Sundays.

Mr. Reville: Do you have any notion why people decided to stay open, in spite of the fact that the Supreme Court decision had not come down? Was there not much enforcement at the time?

Ms. Marshall: In our area, they really did attempt enforcement. We are a little area and we know a lot of the people. Some of the police would come around and give us a warning after two years of being open. Some of the

police would not come around at all. I know they started revolving police officers so they would get enforcement in the area.

I believe a number of the people down in the area--in fact, I know that people down in the area--as you have to make your decision on this issue and the fairness of it, I have to make decisions and so do the other business people out there make decisions regarding the nature and the health of their businesses, the growth of their businesses. Many people decided they just could not do it any other way.

Right now, a lot of the cases that are coming up are being remanded. Again, we are going to take a look at another decision. We are just all waiting and hoping that somebody makes the decision. I believe it is finally going to come to wide-open Sunday opening. I firmly believe that. I think it is just a matter of time.

A lot of the people out there feel that nobody is going to come magically and give them their Sundays back. Nobody is going to come along and say: "Okay, here you are. Sunday opening is legal. Now, here is your Sunday for this day and here is your Sunday for this day. There are your thousands of dollars back that you missed when all those people were walking by your doors and you had them closed."

Mr. Reville: For whatever my opinion is worth, I do not think it is going to happen very soon. I wonder whether your association has thought about applying to the city for an exemption.

Ms. Marshall: Our association has already done that. We appear wherever we can to talk about this issue. The two associations have spoken. As I said, I decided to come just as a merchant.

Mr. Shymko: I sense a contradiction in your presentation. At first you indicated that people assumed this was a tourist area and simply opened on Sunday, and then you referred to the number of fines people simply threw away. So they were being fined. If they were being fined, surely they knew, by being charged, they were breaking the law.

Ms. Marshall: There were a few people being fined. In that area, there was a short list that the police had, and they would go around. One of our local business people in the area got fined every Sunday or got a summons every Sunday since April three years back, every single Sunday. That was because the neighbour next door to him phoned the police every single Sunday and complained.

There were people getting fined. Some people got fined occasionally. Over three years, people like myself got maybe six, and we have been remanded, so we do not know what is going to happen about the summonses of 1985 and 1986. But the new people who moved in there never asked any of us whether we were getting fined, whether we were getting police around, whether--

Mr. Shymko: These things were never discussed at the meetings of your business improvement area?

Ms. Marshall: It was the business improvement area, but new people who come in often are in the area before they realize there are any business associations at all to be involved in.

Mr. Shymko: Mr. Reville asked you whether you had made any



submissions to declare the area a designated tourist area. When has your association made such a submission?

Ms. Marshall: The application has not gone in. There is a lawyer working on it right now. We decided to do a survey first of the area to see how many of our residents actually agree with Sunday shopping. That will make a big difference in our presentation.

Mr. Shymko: You made a very eloquent presentation on the impact on individual retailers, but you still do not have the figures on how many really want to open on Sunday and how many people have been laid off, for example, and the impact this decision of the Supreme Court has had on you.

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Ms. Marshall: You are talking about, probably, a mile-and-a-half retail strip. I have been there for nine years; I know personally most of the merchants down there because of my involvement--

Mr. Shymko: So you assume the majority would be supportive.

Ms. Marshall: Whether I can convince you of it I do not know--I do not have facts and figures--but I know that the majority were open and want to be open.

Mr. Shymko: We were just listening to the presentation by the Ontario Federation of Labour. On page 5, one of their main recommendations is to protect the mom and pop stores. You call yourself a mom and pop operation. I am very confused that, according to their view, eliminating all designated tourist areas would be a blessing to people. The working people would see this as a blessing, because working on Sunday was an objection to many of them. Did you find this was true, that some of the full-time and part-time workers are happy now that they do not have to work on Sunday?

Ms. Marshall: I never did find that with any of my employees or the employees of any of my people out there. Many of us employ students all summer long. We happen to be the kind of businesses which do not need a lot of training to be a sales clerk. We can hire students and we do hire Beaches young people. They only have two days. Our Sunday was not a full day; it was only a five-hour day. They really only had a five-hour day on a Sunday and an eight-hour day on a Saturday when they could actually work and still get their homework done in the evening. I found my students were really hurt by the Sunday--

Mr. Shymko: So you were doing a service. Illegally, unfortunately.

Ms. Marshall: We felt we were doing a service. Unfortunately, illegally.

Mr. Shymko: I certainly wish you success in your submission. The answers you have given to others you probably will give me as well, but do you feel that the province should be making these decisions? Would you not give the municipality those options?

Ms. Marshall: That is right.

Mr. Shymko: Yet you are applying to a municipality. Do you feel you should apply to the province?

Ms. Marshall: We feel we should cover all areas that we can. We are watching Mr. Magder very closely to see what happens in Supreme Court again.

Mr. Shymko: That disturbs me a little, because I should think you would be champions of local autonomy in a business improvement area. Usually people like yourself want to give the municipalities--you are very close to them--the power to decide and to have the discretion of choosing areas and defining them as tourist areas, rather than having Big Brother, the province, move in there and set uniform laws across the province.

Ms. Marshall: I do not really mind either way. Like I say, I was hoping the government would make a decision. I saw it as a football that was tossed from the Supreme Court to the government, saying: "Okay, guys, what are you going to do with this one now? We do not want to deal with it. We are going to leave it the way it is with enough loopholes you can drive a truck through them." That is where I saw the football lie.

The other option was to come out from underneath and have the municipalities decide, and they may do that. It is going to be very tough.

Mr. Shymko: So when you say a political hot potato, you see the province and the municipalities passing the buck to one another?

Ms. Marshall: Personally, that is the way I see it.

Mr. Shymko: It will stop somewhere.

Ms. Marshall: That is what I am hoping.

Mr. Callahan: I would like to try a hypothetical line. Let us assume you were not in a mom and pop situation and you had to work. Would you still favour working on Sunday or would you prefer to be home with your family?

Ms. Marshall: I spent many Sundays home with my family as it was. As it turned out, in the years we were open on Sunday, I did not employ anybody who had children. I was one of the few people employed by my company that did have children. I did not work them all and my husband did not work them all. We had regular full-timers who would alternate Sundays and part-timers who wanted to work Sundays.

For myself, I am happy to have a day off. I take Mondays off, some Sundays and Mondays off, and some Tuesdays off. I find I can get a lot more done on those days off, particularly in my area, because it is really crazy on Saturdays and Sundays, even without the stores open. Of course, you cannot get a lot of your shopping done on Sundays without the stores open.

Mr. Callahan: I gather you have children, or you may not.

Ms. Marshall: I do. I have two children.

Mr. Callahan: If they are of school age, they are probably in school, so you lose the benefit of that one specific day with your children. We are finding in one of the other committees I am on that children are being looked after through day care. I would suppose that Sunday is one day, and perhaps Saturday, when these families can have the joy of their children with them.

I am not sure you answered my question, that if you were not in this

particular business you are in--and I can understand the economics you have given us--would you favour a full-scale operation being open on Sunday and perhaps requiring you to work?

Ms. Marshall: When people state that people are being required to work on Sundays, I do not know whether that is actually the case. My personal preference is to take Sunday off; one a month I like to see off.

Mr. Callahan: I think you have answered very honestly.

The second point I would like to make is I gather the statement you are putting forward is that rather than the municipality having a say, it should be left to some bureaucracy in the province to say yea or nay to whether you get designated. I know your answer will probably be flavoured somewhat by the results you got from the city of Toronto, and maybe you could put that out of your mind, but would you not feel safer and more comfortable being able to apply to a local government for a designation as, let us say, a tourist area than having to come down to Queen's Park and appear before some tribunal and if you are denied your designation, then you really are into a legal battle?

You would have to go to the courts exercise, whereas in a municipal situation, if you are denied it by the municipal council, you could always go back again and again and again if you have further information or you could bring large numbers of people in to lobby. I come from 16 years of council where we had things turned around on the next vote because we brought a lot of people in who demonstrated to the politicians that perhaps their seats were on the line if they did not vote the right way.

Would you not feel more comfortable there, adding to that the factor that every three years you get an opportunity to exercise your disenchantment with your politicians at the municipal level, rather than have it at a provincial level?

Ms. Marshall: I would feel very comfortable to do that exact thing, except that we did do that once before and we were categorically turned down, with the Eaton Centre and with Yorkville, which, in my personal opinion, were both bona fide tourist areas. We all knew when we went down there to present our cases to our municipalities that Yorkville was going to get turned down, that the Eaton Centre was going to get turned down, that Harbourfront was going to be okayed and that the Beaches was going to be turned down. We knew that then.

I do not know what is going to happen now. I would feel very comfortable if we could go now, and I am quite prepared to go now and then go again, and then keep right on going. I just hope we do not lose too many businesses.

Mr. Callahan: If the rules were clearer--because the thing that frightens me is your comment that you believe that eventually it will be wide open in Ontario. Quite frankly, I do not support that view. I think that would have a devastating effect on what is left of the family life in this province, to begin with, or this country.

Ms. Marshall: I had heard a little bit earlier some people suggesting possibly that the government might have some input on the tourist area designation. That may be another area that would come. Wide-open Sunday opening may be pushing it a little bit and may be being a little too optimistic on my part.



Mr. Mitchell: Ms. Marshall, I would like to pinpoint the location of your store. Where exactly is your store?

Ms. Marshall: Our store is on the north side of Queen Street right at Queen and Lee. It is about seven blocks, two street lights, east of Woodbine and Queen, where the racetrack is.

Mr. Mitchell: About seven blocks.

Ms. Marshall: Yes.

1540

Mr. Mitchell: I would imagine that during the summer in particular, with the way the Beach is packed down there--I hear people blaming all the traffic around the racetrack on the racetrack, and I am not convinced that this is where all the traffic comes from. I noticed a huge crowd of people along there, particularly last weekend. You certainly knew there was a crowd from the piles of garbage in the various garbage baskets all along there.

A lot of those people who go to the Beach look for the restaurants along there, Licks in particular, for their ice cream cones and so on. Those same people, I am sure, would be a good part of your business, if you were allowed to be open again.

Ms. Marshall: Yes, they would certainly be a good part of our business. I think the people who are down there right now are looking for a leisurely, recreational day in the Beach, which means going on the boardwalk, walking through the nature trails with their families, doing some shopping, maybe at the local fruit market, maybe to pick up some flowers, maybe to do some clothing shopping, maybe to buy books. A lot of our customers and friends and neighbours consider that something they would like to do with their leisure time.

Mr. Mitchell: You said you were optimistic about wide-open Sunday shopping hours. At the same time, I think it is implicit in your presentation that what you are really looking for when you say, "Let the province make the rules," is that the province say, "The option is yours; do with it as you wish." In other words, if I want to be open, I can be open; if I do not wish to open, I do not have to.

Mr. Chairman: Any other questions? If not, thank you very much, Ms. Marshall, for an interesting presentation.

Our next presenter is Norman Ettinger. Is that correct?

Mr. Ettinger: Yes.

Mr. Chairman: I believe his brief is a letter, numbered 456 in everybody's pile of documents. If you wish to read the letter for the record, that may be helpful. If not, please go ahead and present us with your views.

NORMAN ETTINGER

Mr. Ettinger: You were hearing from another person from the Beaches, but I come forward as a resident. I happen to know Ms. Marshall. I live there, and I have lived there for fourteen or so years. It always seems to me that people who have gained something are the ones who come forward, and I thought

it was about time someone who is in favour of something came forward and put in his two cents' worth. So I am before you.

My personal view, just as a resident or even as a shopper, is that I favour the option of the storekeepers either being open or not being open according to their own wishes. I recognize that there is a conflict with tourist areas. I do not see why Ed Mirvish should have Markham Village open when the Beaches cannot be open. It does not make sense, and for that reason--I am repeating myself--I see no reason why the storekeepers themselves should not have the option of being open if they wish, with the proviso that no employee should be forced to work.

It is from my own knowledge of the Beaches, and maybe from the teen-aged kids who live next door. On Sundays, when the stores were open a couple of years ago, and maybe last year, most of the employees were part-timers and students who, I think, wanted to work and valued the wages they got.

The other people in the stores may be the store owners themselves. Most of the stores were open usually on Sunday afternoon only, which obviously permitted time to go to church for those people who wished to do so. That is the summation of what I have to say, including the letter I put forward to you.

Mr. Chairman: Thank you. Did everybody get a copy of that letter, exhibit 456?

Mr. Philip: You are favour of the merchants remaining open. Are you in favour of the racetrack being open on Sunday?

Mr. Ettinger: It causes a problem with people living immediately adjacent, I find it hard to visualize because I live at the other end and it does not affect me, thank goodness. For those people living adjacent to it, it really is a problem, with people parking all over the place, the sheer volume of traffic down there in that immediate vicinity. As far as people working there are concerned, of course, it gives employment again to people on a Sunday. I have lived there 14 years and I have never been to the racetrack.

Mr. Callahan: Probably a lot richer for it.

Mr. Ettinger: I do not know. It is not my predilection to go there. I find it hard to answer that one from any real knowledge.

Mr. Philip: Do you feel that the municipality should, as was requested this morning, have jurisdiction to control, to regulate recreational facilities such as racetracks in those instances where, as in your area, the racetrack seems to create a problem for the residents by remaining open on Sunday?

Mr. Ettinger: I find it difficult to compare the racetrack per se with retail shopping. I really thought the committee was talking about retail shopping. To me, the racetrack is nothing more than Canada's Wonderland or Ontario Place in a different location.

Mr. Mitchell: Or a Blue Jays ball game or an Argonauts football game.

Mr. Ettinger: Yes. It is a recreational type of facility. People bet money there, but it is the same as spending money at Ontario Place or Canada's Wonderland.

Mr. Philip: So if it is a recreational facility like any other, then you would be of the position that it should remain open like any other?

Mr. Ettinger: I have not thought about it other than when you posed the question, but yes, I guess that makes sense. But there has to be some regulation to the annoyance it is causing to the residents living right there.

Mr. Philip: What happens when you get a recreation facility that happens to be in the wrong spot from the point of view of the common good of the community? Woodbine Race Track is no problem to my community. It exists there. It is in an industrial area. It creates no problems to the home owners by way of noise, parking or anything, but it is quite a different situation out your way on Sundays, I understand.

Mr. Ettinger: Absolutely. It really creates a lot of problems. I am hardly answering the question, but I compare it to the Lester B. Pearson International Airport in Malton. People may have moved there 20, 30 or 40 years ago when it was a relatively small airport. Those people who move there now know the thing exists and know the problems they are facing by moving into that area. I am sorry it does not answer your question; I recognize that.

Mr. Callahan: The federal government keeps threatening another runway, and the people of my community do not like it very much.

Mr. Ettinger: That is a political option. They have to make representations to the federal government.

Mr. Philip: You talk about freedom of choice; namely, that the small businessmen can stay open or not stay open. Are you aware that most small businessmen who have appeared before this committee have argued that if you allow Sunday openings, even though they do not wish to remain open and even though their employees do not wish to work, they are forced for economic reasons to stay open because their competitors are going to be open? Where is the freedom of choice when someone has that kind of economic position?

Mr. Ettinger: I really appeared before you as a shopper and as a resident who quite frequently has to work Saturdays. I would like to have the facility of the stores being open on Sundays as they were last year and the year before that, before I guess there was a clampdown.

As for the retailers being forced to open, it is still their choice. If they choose to take the economic consequences of being closed on that day, fine. I was sitting through an earlier presentation--I think it might have been Ms. Marshall--when Mr. Callahan made the point about closing on a Monday or a Tuesday. If that is the day those retailers are doing the least business, it seems to me that, on a commonsense basis, if there is more business on Sunday let them be open on Sunday. If they wish, let them close on one other day of the week to give them that day off during the week.

Mr. Philip: Arguments will be made by unions, companies, small retailers and large retailers that there is no way in which you can operate seven days a week without having additional costs to the consumer. There is at the very least security costs in the case of mall owners, and that probably does not affect your neighbourhood as much as mine. There are certainly additional cleaning costs, heating costs and air-conditioning costs. There are a variety of costs.

You appear as a consumer. Are you prepared, as a consumer, to pay more for your products by having this additional convenience of being able to shop seven days a week?



Mr. Ettinger: As a consumer, I have the option of not shopping if those stores put up their prices. If they are forced to put up their prices for whatever reason, be it a Sunday opening or any other competitive reason, I can go and shop elsewhere. I have that option.

I think it is true to say--and I listened to Ms. Marshall earlier, the lady from Bimini--that in the Beaches there would definitely be increased business for storekeepers from people visiting that area on a Sunday. They would get extra revenue and their prices, therefore, would not go up. I do not see that.

Mr. Philip: Are you aware that in other jurisdictions, areas such as the Beaches that benefitted initially in the short term by Sunday openings soon lost those benefits when everybody else remained open on Sunday? The fact is that those very people who argued for Sunday openings are now arguing that there is no economic benefit in being open on Sunday.

Mr. Ettinger: There was an earlier point made too, in the Ontario Federation of Labour presentation, about spreading six days' business over seven days, but I think each area has to consider its own wishes for itself.

The Beaches area is very busy on the weekend. The stores should have the option of being open at that time. If other areas cannot see the economic benefit of being open certain days, then they should have the option of being open or not open, as they wish. I am suggesting it be wide open according to people's wishes and there be no regulation.

Mr. Philip: That simply has not held up in British Columbia where municipalities were forced, against their will, to vote for wide-open Sundays simply because money was travelling out of their community into those communities that decided they wanted to have open Sundays.

Mr. Ettinger: I have been to Windsor on a Sunday. Windsor is wide open and attracts business from Detroit, and the Americans--

Mr. Philip: Interestingly enough, the Windsor businessmen argued that they got very little economic benefit other than the fur trade on Sunday.

Mr. Shymko: We have heard constantly that most consumers support open Sundays, but when asked whether they would like to work on Sunday, they certainly object to that. I just wonder whether or not you are part of that consumer advocacy.

Mr. Ettinger: I have not thought about it. Again, I guess I am avoiding the question slightly by saying it is from my experience in the Beaches and seeing the teen-aged kids who live on the street near me. It is those people who are employed on Sundays, the part-timers and the students who are getting that extra revenue. I repeat what I think I put in my letter. I do not see that a regular employee should be forced to work on a Sunday if he chooses not to do so.

Mr. Shymko: So the aspect of a convenience to customers and to people generally to open up on Sunday is one side, and the other side is argued that you are inconveniencing some other people. A lot of businessmen, as the last presentation, will say: "You are not inconveniencing us. It is one of the things we decided to do when we decided to open up a retail."

The question comes in whether or not you believe that regular employees were not really forced to work against their will--part-time students or even

full-time people who, because of need or whatever factor, found Sunday appropriate to work.

Mr. Ettinger: Yes. They could well be single people who have no other reason or particular need to be at home on a Sunday and may well have a day off during the week to compensate.

Mr. Shymko: Apparently this issue is still debatable. Obviously, the union representatives do not feel that way. They feel there is subliminal and other pressure. I would tend to view it as those who are unionized may have their position because, under union contracts, usually they would have Sunday as a day of rest, except maybe Inco where you have weekend shifts or something like that. But most of the part-time and full-time people who work on Sundays are nonunionized.

Mr. Ettinger: Yes. I think from my general reading of the papers and media, most retail employees are nonunionized.

Mr. Shymko: Do you feel the closure of designated tourist areas, the effect of that would be a lot of these people simply ending up without jobs?

Mr. Ettinger: Yes, particularly the part-timers and the students.

Mr. Shymko: Do you support the designated tourist area as the approach rather than opening up all of Metro, for example, or the whole province?

Mr. Ettinger: It seems to me a much fairer basis to open up not just Metro but Ontario.

Mr. Shymko: Open up the entire province?

Mr. Ettinger: Yes. I see no reason for the tourist designation per se. I repeat what I think I put in that letter. I do not have a copy in front of me. It should be a matter of individual choice.

Mr. Callahan: I asked the last lady, and she very fairly answered it: If you were required to work on Sunday, would you have any difficulty with that or do you find that would eat into the time you have with your family and your children?

Mr. Ettinger: My children have all had it, so it hardly applies any more.

Mr. Callahan: Let us assume when they were of an age where the family could get together.

Mr. Ettinger: It would really not cause a problem. I guess I would appreciate having the option as to whether I wished to or not on that particular day. One could always compensate in making other arrangements to be with family. It does not have to be on that Sunday.

Mr. Callahan: What if they were of school age and they were going to school during the week? You have indicated you work on Saturday; if you had to work on the Sunday as well and had two days off during the week, would--

Mr. Ettinger: That would cause a problem, I agree.

Mr. Callahan: The difficulty is not so much with the mom and pop operations or the smaller operations--they are perhaps by choice--but to open it up holus-bolus, you would create a lot of the things that I think some of the members have suggested in the large malls, where people who own small shops do not want to open up and would have to open up because Dominion Stores or one of the bigger areas opened up, because it is part of the terms of their lease.

The other thing is, if one municipality decided to enact this, you would have business going out of one municipality to another. Small competitors who choose not to open on Sunday lose business to other competitors who do. There is a whole host of problems and it is not quite as simple--

Mr. Ettinger: We elect you gentlemen to solve the problems.

Mr. Callahan: We appreciate hearing from you; you bring ideas from the public which help us to do that. It is not a question of trying to delay it or hide it; the purpose of this committee is to have input so that a decision can be made, not only in the framework of today's reality but also in recognition of the fact that we are now governed by the Charter of Rights, the supreme law of the land. If we do something or if we enact legislation that is unfair, we will have all sorts of court applications. It will not be just the one that went to the Supreme Court this time; you will have them all over the place. That is hardly a beneficial thing to business and to the individual, to be left in that unsettled water, as it were.

Mr. Ettinger: Those waters are unsettled now, from what I read in the press. With all due respect, it is hardly for me to say, but the purpose of this committee is to try to settle that--

Mr. Callahan: We want input. That is right. We know the cat has to be belled; it is a question of how to bell the cat. That is really what it is all about.

Mr. Mitchell: The questions I am going to ask you really should have been asked as supplementaries to Mr. Philip's. How long has it been since the racetrack has been open on Sunday?

Mr. Ettinger: It has been quite recent.

Mr. Mitchell: It was not open Sundays last summer?

Mr. Ettinger: No.

Mr. Mitchell: Was that parking facility at the racetrack ever open on Sunday, for people using the beach to park in there, or was it not usually locked off?

Mr. Ettinger: I really do not know. As I live there, I do not use it, so I am not sure. I do not think--

Mr. Mitchell: I suggest to you that it was locked off.

Mr. Ettinger: I think it was closed. I do not think it was open.

Mr. Mitchell: Would you agree that parking in that area was at a premium on a Sunday during the summer because of the cars parked all along Lakeshore Road, Queen Street and whatever by users of the beach area?



Mr. Ettinger: I think parking in the whole of Toronto is at a premium at any time, but particularly on a Sunday, with visitors, it is very crowded.

Mr. Mitchell: I guess what I am really asking you is, do you think you can blame the parking situation in that part of the area totally on the racetrack, or is it not a combination?

Mr. Ettinger: On a pleasant Sunday, or a pleasant weekend, or a pleasant day, parking is a premium. There is not enough parking; there really is not.

Mr. Chairman: Thank you for your time and attendance. I appreciate it.

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We have been advised that Mr. Shainhouse is not available for the four o'clock presentation. However, Mr. Clubine, who was due at 4:30, is here. If you will come forward, sir, we will be glad to hear from you now. It is exhibit 311, distributed to us some time ago. We have it before us.

I notice that your brief is quite lengthy. You have indicated to the clerk you are going to summarize it.

Mr. Clubine: Has the entire committee already read through it?

Mr. Chairman: The committee has had the brief for some time. As to whether the members have read through it, I do not know. We would have to ask each of them individually. I assume they have, of course, as they have with all 542 briefs that were presented to us. You may wish to summarize parts of the brief and allow us some time for questions.

#### JOHN CLUBINE

Mr. Clubine: I will skip some. When I come to ones that I skip, I will let you know. I have come here to speak as a citizen in support of absolute religious liberty for all Canadians. It is my opinion that the current Sunday laws are not only based on favouring a religious majority but are an infringement on the rights of those whose religious traditions differ from the majority, concluding that the Canadian society is not interested in treating all citizens fairly and equally. Canada's Sunday laws are therefore ones of religious discrimination.

Section 2 of the Canadian Charter of Rights and Freedoms--I will read the first part and the last parts: "Freedom of conscience and religion," and "freedom of peaceful assembly; and freedom of association."

Section 15 of the Charter of Rights, "Every individual is equal before and under the law and has the right to equal protection and equal benefit of the law without discrimination."

The Lord's Day Act is one that was enacted 80 years ago. It declared Sunday to be a day of complete rest. Over the years the various exceptions to the act arose and Canada began to allow cultural and sporting events, which the Lord's Day Act allowed the province to enact their own legislation on the subject of doing things on Sunday, such as allowing baseball games and movies on Sunday, even though the Lord's Day Act does not permit it.

As far as which day is the Lord's day, the Bible does not say which particular day is the Sabbath. In the Old Testament, Exodus 20, verse 8, it says, "Remember the Sabbath day, to keep it holy," and verse 10 says, "The seventh day is the Sabbath of the Lord thy God."

In Canada the majority of religions observe Sunday as their Sabbath. Our laws and practices were formulated in large part with only the so-called Christian religion in mind. These laws impose an inconvenience on those religions whose Sabbath falls on another day, such as the Seventh Day Adventists and those of the Jewish faith. The Bible also says, "Let no man therefore judge you in meat or in drink, or in respect of a holy day, or of the new moon, or of the Sabbath days." Believers of all faiths should also heed the words of the Apostle Paul when he said, "If it be possible, as much as lieth in you, live peaceably with all men."

The Sunday closing laws are a worldwide religious problem. If you have read this over, the three countries I mentioned are England, Puerto Rico and Scotland. In England in particular it is interesting that Margaret Thatcher is for liberalizing the laws.

Mr. Callahan: That is one reason she did, I guess.

Mr. Clubine: That is your opinion. In Puerto Rico it was interesting that the Catholic bishops decided to drop their objection to the erratically enforced Sunday laws, although in 1982-83 the Catholic church joined the evangelical Protestants in threatening legislators with reprisals at the polls if they tampered with the legislation. A letter writer named Joseph Fitzgerald said in the end to keep politics out of religion, and the time has come to understand that freedom is everyone's business, your business and mine.

In the Outer Hebrides in Scotland, where most of the people in that part of the country are members of the Free Presbyterian Church who broke from the Calvinist church, the church demands strict observance of its Sabbath and all activities are banned on Sunday by law, except church attendance. However, that policy has finally come under challenge after a great number of islanders skidded off icy roads in January. Protests to the Sunday work ban began to mount. Residents demanded a change in the law, which forbids government-owned trucks to spread salt and sand on the roads from midnight Sunday until Monday morning. A hearing by the 30-member all-island council produced mixed results.

The Reverend John MacLeod, a Free Presbyterian minister, advised the council that change must be careful. "The criteria for work on the sabbath are mercy and necessity," he said. "If it can be shown that it is a necessary work of mercy, there is nothing wrong with carrying it out." But he warned, "There is nothing old-fashioned about the moral law, which is as timeless as the world. Games and other social and business activities are strictly impermissible."

A dentist's wife named Margaret MacMillan said, however, that "saving lives can never be against God's law." She noted that doctors and other hospital workers often risk life and limb on the slick roads.

The council, for the time being, is taking a middle route. Road crews will be allowed to operate on Sunday if called by the police officials or medical personnel "in an emergency."

Even that limited concession was too much for one church elder. "It will prove the thin edge of the wedge that ushers in a godless sabbath."

The question that has often been asked here is, is it ever right to break the law to change the law?

I use the example of Rose Parks back during the civil rights movement, when in 1955 she boarded a Cleveland Avenue bus in Montgomery, Alabama and took a vacant seat in the front of the bus. She refused to give her seat to a white man and was arrested. Other Negro women organized and called for a boycott of the city buses. The boycott went on until 1956. Dr. Martin Luther King and 100 other Negroes were indicted on a charge of conspiring an illegal boycott. The National Association for the Advancement of Coloured People supported them, defended the case in a federal court and had the bus segregation ordinance declared unconstitutional.

I believe that this case and others not only make it clear that sometimes breaking a law to change a law is justifiable but also that the rights of the majority should not always be considered over those of the minority. An example was also Brown et al v. Board of Education of Topeka et al which by a 9 to zero decision of the United States Supreme Court ruled that school segregation was unconstitutional since "separate educational facilities are inherently unequal."

The one that took her case, Linda Brown's father--she went to an all-black school and had to walk nearly five miles back and forth every day. The school she went to was one of only four Negro grade schools in Topeka, Kansas, whereas there were 18 for the city's white children who outnumbered the coloured youngsters 6,019 to 658, or 10 to one.

I believe there is no question that the Supreme Court of Canada reversed itself by using the Charter of Rights and Freedoms to protect a majority instead of a minority in its six to one decision to retain the Sunday laws. This is rather astonishing when one recalls that the very same court, led by Chief Justice Brian Dickson, in a 1985 decision that he wrote on behalf of the court, struck down the Lord's Day Act specifically because it said that government-mandated Sunday closing creates a climate of hostility towards religious minorities.

I will skip over the page.

The Supreme Court conceded that they had discriminated against minority religions.

Down to the second paragraph: The limit on religious freedom was evident by the case of Nortown Foods Ltd., a kosher Jewish food store. The Retail Business Holidays Act allows the store to close Saturday, as its owner's religion dictates, and stay open on Sunday, but it is not allowed to have more than four employees working on Sundays, a restriction that is never imposed on food stores that close on Sundays.

The Ontario Court of Appeal had ruled that this arrangement violated religious rights, but the provincial government appealed that ruling. It denied that forcing a store to restrict its operations because of differing beliefs constituted discrimination. The Canadian Supreme Court, however, admitted that there was religious discrimination. The court's majority opinion, written by Chief Justice Brian Dickson, conceded that the Retail Business Holidays Act violated religious freedom. In fact, it confirmed it



twice. Examining the case of retailers who observe a Saturday sabbath, Dickson wrote, "Their freedom of religion is abridged by the act." With regard to those consumers whose religion mandates a day of rest on Saturday and who would rather shop on Sunday, the Chief Justice added, "The burden on Saturday-observing consumers is substantial and constitutes an abridgement of their religious freedom."

I do not believe there really is such a thing as a day of complete rest when one considers there are newspapers that operate seven days a week. The question should be asked, why cannot the editors, journalists, copy writers, layout artists, printers, shippers and others be given a rest from their labours? What about the boys and girls who have to get up early every morning, at 5:30 sometimes, to deliver not just from Monday to Saturday, but also Sunday morning?

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What about all the church people who go to restaurants after church. Why cannot these businesses close? I often hear, too, about how they are worried about the moral fibre of our society if the stores open on Sunday, but instead of attacking Paul Magder and the food chains, you should consider the video stores that sell pornographic films or the convenience stores that sell skin books. I think these businesses do far more harm to the moral fibre of our society than does someone selling furs or fruit.

Basically, I believe that the government should be neutral towards all religions and should stay out of the religious issues of our country, whether it be public funding for parochial schools, forced prayer and Bible reading in the public school and legislating Sunday shopping. The people should decide for themselves.

The role of government should then be complete neutrality towards all religions. Whenever church and state come together, true religious liberty will be suppressed. A church state often occurs and religious faith will become nominal instead of devout. What were the results of a Catholic state in Spain under Franco, Portugal under Salazar, Chile under Allende, in Argentina, Columbia and other Latin American countries? What good has come out of Northern Ireland under Protestant domination, Iran under the domination of Islam and Indonesia under Muslim rule? What governments everywhere must do is to favour no one religion but to protect them all.

I believe that article VI of the United States Constitution is a very wise law because it says, "But no religious test shall ever be required as qualification to any office or public trust under the United States." It is interesting that in Argentina, the President and Vice-President must be Roman Catholic; in Lebanon, the Prime Minister must be Sunna Muslim and the president a Maronite Christian; and less than 30 years ago, Jews, Roman Catholics and Negroes were not permitted to hold public office in parts of the American deep south, such as Mississippi and Georgia.

As for the churches that are outraged about our stores opening, I think that just because of the fact they are exempt from paying property tax, they should mind their own business.

In conclusion, I believe we should allow the store merchants to open on Sundays if they wish. As for the employees who fear that they will be forced

to work on Sunday, I believe I am wrong after hearing these other talks, but I had felt that it was completely voluntary on Sunday if you wanted to work.

I will conclude with the words of Charles Haddon Spurgeon back in the 19th century when there was a shopping on Sunday laws catastrophe then. He said:

"As to getting the law of the land to touch our religion, we earnestly cry, 'Hands off! Leave us alone!' Your Sunday bills, and all other forms of act of Parliament religion, seem to me to be all wrong. Give us a fair field and no favour, and our faith has no cause to fear. Christ wants no help from Caesar. I should be afraid to borrow help from government; it would look to me as though I rested on an arm of flesh, instead of depending on the living God. Let the Lord's day be respected by all means, and may the day soon come when every shop shall be closed on the sabbath, but let it be by force of conviction, and not by force of policemen; let true religion triumph by the power of God in men's hearts, not by the power of fines and punishments."

Mr. Philip: When you were a little boy, was your bicycle ever run over by a clergyman?

Mr. Clubine: No.

Mr. Philip: I was just wondering about the vindictiveness against church people that seems to spit forth from reading your full brief, not just from what you have read into the record. Are you aware that the accusations you made against churches regarding taxes that may or may not occur in the United States are in fact not valid in Canada?

Mr. Clubine: They do not pay property tax, do they? Our churches do not pay property tax.

Mr. Philip: They do on all other property they own, including their church halls. Are you aware of that?

Mr. Clubine: I though any property owned by churches was not taxed.

Mr. Philip: No, that is not true. The theme of your paper seems to be that somehow the state, in having a day of rest--Sunday in this country and Saturday in some other country--is imposing a religious concept on the population. Is that correct?

Mr. Clubine: Yes, that is my impression.

Mr. Philip: Can you explain then why those countries that are officially atheistic would be imposing a religious concept on the population?

Mr. Clubine: Are you talking about Russia?

Mr. Philip: Yes.

Mr. Clubine: That is not a religious thing at all. It is simply a day they give everyone whether they like it or not. They have no choice there.

Mr. Philip: Maybe the state in Russia that originally allowed Sunday openings, and has come back to the idea of a day of rest--Sunday in the case of most of the Soviet countries--recognizes that perhaps even if you are an atheist that there may be something in man that says that one day a week is a

day when the majority of people should have an opportunity to be with their families.

Mr. Clubine: The people do not have a choice as to what day they want. It is still imposed by the state as to what day it is. The churches have no choice at all.

Mr. Philip: What choice does an employee have if his wife's employer decides that the day of rest is going to be Monday and he and his employer decide that the day of rest is going to be Saturday? What choice is there for that employee who wants to be together with his family on that one common day?

Mr. Clubine: As I said, there are concessions they can give. I mentioned in my brief that there are churches that have their services in the evenings or on other days.

Mr. Philip: I am not talking about going to church. Suppose the person does not want to go to church, but he accepts that in a society there may be one day when the husband and the wife and the kids should be home together, one common day when they can get together and communicate in this society when there is so much pressure on the family.

Mr. Clubine: So the state is imposing it?

Mr. Philip: Would you rather have General Motors impose it?

Mr. Clubine: I feel it is a religious issue. I think that because of the society we are, which has a diversity of religions, people have to make that choice themselves.

Mr. Philip: So you would prefer that the state said, "We do not want to have a religious imposition, so therefore we will pick Monday because nobody has Monday as their sabbath." Would that be acceptable to you?

Mr. Clubine: I feel it is a neutrality. I think the state should be neutral to all religions and allow people--

Mr. Philip: What could be more neutral than a Monday closing?

Mr. Clubine: The thing is there are some religions that also have Monday as their day of rest. I am just saying that I believe in neutrality. I think the government should stay out of the religious affairs of people. I do believe that at least most business people or employers are reasonable enough to make concessions to their employees. As I said before, does a person really have to worship on a Sunday when his particular religion--

Mr. Philip: I am not talking about worshipping. You keep on bringing it back to worshipping when none of us is dealing with that.

Mr. Clubine: That is right. That is what I am dealing with.

Mr. Philip: I think it is completely irrelevant.

Mr. Clubine: As I said, if you think it is irrelevant, why did the Supreme Court of Canada change the Lord's Day Act to the Retail Business Holidays Act?



Mr. Philip: It did not change it; it was the government that changed it.

Mr. Clubine: Okay, but the Supreme Court went along with it, did it not?

Mr. Philip: No, it did not; I am sorry. What happened was that the government decided, as did the churches, that it was not a religious concept but a social concept and that for the good of society it might be a good idea if families were able to be off on one common day. That is why it was upheld by the Supreme Court, and when it was phrased in other provinces in religious terms, it was not upheld.

Mr. Mitchell: Mr. Philip, it sounds that because Mr. Clubine's opinion does not agree with yours, you are berating him.

Mr. Philip: No, sir. What I am trying to do--

Mr. Mitchell: It certainly sounds that way to me.

Mr. Philip: What I am trying to do--

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Mr. Mitchell: I am sorry, I would appreciate it if you would change your line of questioning and ask questions, not berate the gentleman.

Mr. Philip: What I am suggesting to him is that if he wants to misinform the public, I have the right at least to inform it of what happen to be the facts.

Mr. Clubine: What are the facts, sir?

Mr. Philip: I just gave them to you.

Mr. Clubine: I do not think you did. I just said again that the Supreme Court changed the Lord's Day Act to the Retail Business Holidays Act because it did not want to make it sound religious.

Mr. Philip: That simply is not true.

Mr. Chairman: If I may intervene here, I think we have a difference of opinion that we are not going to resolve by each of you stating your position and neither agreeing with the other. Perhaps we can move on to the next questioner, who is Mr. Callahan.

Mr. Callahan: I have read your brief. It is thought provoking and I am not going to be so nasty as to say that your bike was run over by a clergyman. I think you addressed your mind to the question of separation of church and state.

Mr. Clubine: Yes.

Mr. Callahan: You presume that the reason we might make a decision here would be premised on the fact that Sunday happens to be the day recognized not just by Christian religions but also by numerous other

religions and would fly in the face of the suggestions you make in your brief that church and state should not be hooked together.

Mr. Clubine: Yes, I do not think they should be.

Mr. Callahan: Let us look at it this way. At present, schools are not open on Sunday. Schools operate from Monday to Friday. Let us say you are an employee who has to work on Saturday and Sunday and gets Monday and Tuesday off. When do you get to see your children?

Mr. Clubine: On Monday and Tuesday.

Mr. Callahan: When? They are at school from nine till 3:30.

Mr. Clubine: Do you not see them in the evening? You see them all through the week.

Mr. Callahan: Would you not agree that should have a significant impact on the retention of what family life is left in this province and this country?

Mr. Clubine: No, I do not know whether I can agree with you that just because a person happens to work Saturday and Sunday he does not see his family or the children as much. After all, there are so many businesses today where there is what we call necessary employment; policemen, firemen and others. They are affected by that. Obviously, there is work of necessity. They go into that type of employment knowing that these types of inconveniences are going to occur, so they make the best of a difficult situation. Often, there are families that are closer because of that. They make use of their precious time.

Mr. Callahan: I will bet you that if you canvassed the policemen, the firemen or any of those other people and asked them whether they would like to have Sunday off to be with their families, they would say yes.

Mr. Clubine: Of course, but they are all affected by the fact that they have to work shifts and take their turns.

Mr. Callahan: Let us go to the reality of things in modern shopping plazas today. There are a number of small business outlets in those shopping plazas and they are bound by the terms of their leases to stay open at any time the larger businesses are open. If you open on Sunday for Dominion or the bigger retailers, these people really would not have the freedom to say, "We will not stay open." Would you not agree with that?

Mr. Clubine: I am not sure I quite caught what you were saying.

Mr. Callahan: They are bound by their leases to stay open at the same time the larger chain stores stay open.

Mr. Clubine: It is because of the rules of the lease, such as ones that are open from 10 a.m. from Monday to Saturday.

Mr. Callahan: Those people are being denied their rights.

Mr. Clubine: The people or the particular employer who is running it?

Mr. Callahan: The employer and employees perhaps. Both of them might not want to be there on Sunday.

Mr. Clubine: Okay, but I was under the impression that it was still the case that the employees can volunteer to work Sundays.

Mr. Callahan: It is anybody who is being forced to work. Even the person who operates a small business and whose competitor stays open on Sunday probably would be forced, in an economic way, to stay open on Sunday as well to compete.

Mr. Clubine: I can sympathize with that. Therefore, you should do one of two things, either close all the stores or open them all. Take Paul Magder. We know that he breaks the law each time he opens on Sunday, but there are furrier stores in other areas that are allowed to open without restrictions such as in the Niagara area.

Mr. Callahan: They may be in a tourist area.

Mr. Clubine: Yes, but this is the problem about tourists too. Does Magder not have his business in a tourist area?

Mr. Callahan: I will not get into that.

Mr. Clubine: Okay.

Mr. Callahan: The Supreme Court, I think, has ruled on that. But the whole purpose of your paper--and I do not berate you for it. I think it was rather stimulating to the mind, but your whole premise seems to be based on a question that this entire issue at this time--we are talking about 1987--is being governed one way or the other on the basis of religious grounds.

Mr. Clubine: Yes, I feel that.

Mr. Callahan: You do not see any merit in the factor that perhaps we are trying to secure for employees and employers rights of being able to decide whether they want to be with their families on Sunday?

Mr. Clubine: That might be one reason, but I still think religion is a factor, too.

Mr. Callahan: I gathered that, because your entire brief is directed towards the historic background of that, and some of that historic background may be correct.

Mr. Clubine: It is. It is documented.

Mr. Callahan: But in fact, we are talking about it in 1987, and because we have selected Sunday--

Mr. Clubine: As a day of rest.

Mr. Callahan: --except in the cases of some religions--the Jewish faith and other faiths. Because everything is set up on the basis of Sunday being a day of rest--schools operating from Monday to Friday and so on--you are saying that we should turn all this around because it is based on a religious definition.



Mr. Clubine: No, I think there are problems there. As I say, I would prefer that all the stores remained closed.

Mr. Callahan: On Sunday?

Mr. Clubine: Yes. I would prefer that, but we know they do not. I also sympathize with those, such as Nortown Foods. Because of his faith, it is closed Saturday, but is not permitted to have a full business on Sunday.

Mr. Callahan: I am sorry. I read through your brief, and I misinterpreted that. I thought the tenor of your brief was--

Mr. Clubine: Allow them to open but--

Mr. Callahan: --that because it was all based on religion, everybody should be able to open on Sunday. That is what I thought you were saying.

Mr. Clubine: But either that way or close them all. Either open everything or close everything.

Mr. Reville: I understand your position is that this is all about religion, and clearly, if you feel that way, you are entitled to that view so there is no point in arguing with you on that.

I do have a couple of questions though. Are you aware that if Mr. Magder wanted, under the legislation as it now exists, he could apply to the city of Toronto for permission to stay open?

Mr. Clubine: He could apply?

Mr. Reville: He could, and the council could then decide whether or not it thought it was appropriate. Are you aware of that?

Mr. Clubine: No.

Mr. Reville: The legislation currently contains within it a municipal exception that a municipality can make and has indeed made in some cases already. There has been a suggestion however that we take that right away from the municipalities and we will have to struggle with that one. Do you think that if a group or a person does not pay taxes, they have no right to put forward their opinion? Do you really believe that?

Mr. Clubine: They have right to.

Mr. Reville: All right, so you really do not object to the church groups coming and saying--

Mr. Clubine: No, not at all.

Mr. Reville: Have you had a chance to follow these hearings at all?

Mr. Clubine: I have not been here, of course, but only from what I have read in the newspapers.

Mr. Reville: Are you aware there is a fairly broad group of people who feel Sundays should not be wide open?

Mr. Clubine: Yes, I know. As I say, depending on what paper you

read, the polls seem to be so misleading, do they not?

Mr. Reville: I am not talking about polls. I am talking about people we have heard from. Church groups are very well represented and have spoken forcefully about the need for a pause day either to worship or to be with your family, but they have been joined by other folks who are not particularly religious--at least, they do not argue that as their reason.

Mr. Clubine: They just want a day of rest for themselves, regardless of religion.

Mr. Reville: I think they call it family day. That is one of the ways to talk about it.

I guess one question I have is, you make the point on page 11 that maybe the churches should really be going after pornography. Do you not believe that churches do take a lot of leadership in terms of trying to fight pornography?

Mr. Clubine: Yes, they do.

Mr. Callahan: So you were just making a rhetorical point.

Mr. Clubine: But I was making a point on the video stores. I think the fact that they are allowed to be open, and we know that some of the films they are selling are not of the good quality.

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Mr. Reville: In fact, that point is made very strongly by the booksellers who are outraged that you cannot buy a Bible on Sunday but that you can rent a porno flick. I do not think anybody disagrees with you on that point. I just hoped you were not suggesting that the churches are not taking leadership in trying to root out pornography.

Mr. Clubine: Not at all.

Mr. Shymko: We have listened to presentations from the Anglican church and the Roman Catholic church. If I recall correctly, the vast majority do not present this as a religious issue. They stress that it is, in fact, a secular issue basically. Do you not think the change of the act from the Lord's Day Act to the present name of the act represents that move away from a religious connotation of this legislation to a purely secular one?

Mr. Clubine: Perhaps like the one Russia has, culturally?

Mr. Shymko: I guess Russia had to--

Mr. Clubine: But as you are saying--

Mr. Shymko: The regime in Russia-- The vast majority adopted many things that existed before. The Red Army was 80 per cent composed of officers of the czars and other things. Obviously, there is a day of rest in all societies. Whatever the ideology, it is basically a fundamental precept. It may vary in Israel to another day. I do not know about Iran or some other countries.

Mr. Clubine: That is a problem when you--

Mr. Shymko: But it is secular. At least, we have had the perception on this committee that it is really not a religious issue. I have always felt this. I want to congratulate you for supporting Madam Justice Bertha Wilson in her dissenting view in eliminating some of the discriminatory factors of giving more protection to minorities. I think you are to be commended on that.

The problem I have is when you quote two very prominent justices of the Supreme Court--Chief Justice Brian Dickson and Madam Justice Bertha Wilson--and you promote civil disobedience. Are you promoting civil disobedience?

Mr. Clubine: No.

Mr. Shymko: Are you indeed saying that if we have failed in changing this law in our society through petitions, peaceful protests, writing and phoning your local politicians and when all else fails and has been exhausted, the only means left is to break the law, and that is justified?

Mr. Clubine: It depends on what the law is.

Mr. Shymko: Do you feel that on this issue we have reached that point?

Mr. Clubine: It depends on the law whether it is fair for all or not.

Mr. Shymko: I agree. It depends on the law, but my question to you is, have we reached the stage where all of these processes have been exhausted and we are to promote civil disobedience?

Mr. Clubine: No, we should not.

Mr. Shymko: So really you are not telling this committee that everything has failed?

Mr. Clubine: No, you are still having hearings, are you not? I commend you for that.

Mr. Shymko: I am glad you pointed that out. I certainly would be very upset if you were here making some eloquent statements on some issues. I disagree with a lot of other things.

Mr. Clubine: I do wish to say this. I questioned people who oppose Sunday shopping or who do not wish to shop on that day. If they feel so strongly, is it necessary for the state to have to intervene for them? I do not shop on Sundays at all myself.

Mr. Shymko: You yourself are contradicting yourself, because the state sometimes has to intervene in order that justice be done. If there is injustice in society, you want the state to intervene, do you not?

Mr. Clubine: Yes, depending on the--

Mr. Shymko: You are asking us to intervene--my colleague politicians in other things--because there is an inequity in the law. So really, the state has to intervene when there is injustice in some cases.

Mr. Clubine: Yes, in some cases.



Mr. Chairman: That concludes our questioning. Thank you very much, Mr. Clubine, for a well-documented brief.

That concludes the hearings for today, gentlemen. Tomorrow we have three scheduled depositions plus there will be an amended agenda indicating that at 11:30 we will take some time to discuss some administrative matters, including additional budget and some routine matters.

If we have time, I would also like to get into the issue tomorrow of discussing briefly whether our mandate includes the Greenwood Race Track situation or not. If that tends to run too long, we will have to defer the balance of the discussion I suppose to our next sitting, but it may be useful to start it tomorrow and even finish it tomorrow because there are considerable presentations to us on that issue, and if we are to include it in our deliberations when writing the report, we will want to read all of those materials. If we are not to include it, then perhaps we will not have to go through those materials.

Notwithstanding the agenda you see before you, be prepared, if you will, to stay until noon or slightly after noon tomorrow so we can discuss these additional administrative things.

Are there any other matters to raise tonight?

Mr. Callahan: Are we going to take bets on that last issue?

Mr. Chairman: I am open. Only the chairman?

Mr. Reville: So that we can be thinking overnight about this organizational exercise for tomorrow after the hearings conclude, is it that we have to make a request to the House leaders for--you like that, do you?

We can do that now and say, "Time, go home."

Mr. Chairman: Do you want that duplicated, circulated and part of the record?

Mr. Reville: Yes. There are a few members of the committee that probably should not go to.

Interjection: Four.

Mr. Reville: Four. Are we working toward making a request to House leaders for sitting time after April 28?

Mr. Chairman: Yes. That is on our schedule to discuss tomorrow, the suggestion being we need about six to eight sitting days to write the report, but we can discuss that.

Mr. Reville: That is your view, is it, six to eight days?

Mr. Chairman: That was a ball-park figure, of what was thought to be necessary.

Mr. Reville: Yes. That is probably about right.

Mr. Chairman: If you want to think overnight about the items that I had to discuss, (inaudible)--

Mr. Reville: Yes. That would be helpul.

Mr. Chairman: --they are: some additional budget for extra sitting days, and I have noted six to eight days may be appropriate; we have to pass a motion to ask for further sitting days, but that is routine; discussion as to whether our further sittings should be in camera; and the last item was whether our mandate includes Greenwood Race Track.

Mr. Sheppard: And whether we want to sit on Sunday.

Mr. Chairman: Whether we want to sit on Sunday.

Mr. Shymko: On the agenda tomorrow we have three witnesses. About the two who did not appear today, is there a possibility of them being notified, or are they coming or have they--

Mr. Chairman: We have not heard one way or the other from them. I would think they have had their opportunity and that we should not try to accommodate them by further sittings.

Mr. Shymko: I just wondered if there was a reason why they could not attend.

Clerk of the Committee: They just did not call. They did not let us know at all. They were contacted last week.

Mr. Shymko: We do not have to do this, but I just wondered whether the clerk may want to make a gesture that is not, perhaps, common--but the clerk is very uncommon.

Clerk of the Committee: I do not have difficulty with those who have the courtesy to call and let people know, but I do have difficulty with those who do not show.

Mr. Reville: On that matter, at least one of the people who did not arrive today is part of the same group that included Mrs. Marshall, Mr. Ettinger and Mr. Salvatore. It is possible we have already heard much of what Mr. Lowenstein might have said because he is Beaches BIA. We heard from Mrs. Marshall, who is the chair, and tomorrow we are going to hear from Mr. Salavatore, who is in a companion association.

Who knows why they did not come, but--

Mr. Shymko: Who is Mr. Kevin Molloy?

Mr. Reville: I do not know him.

Mr. Shymko: It may be that purely because of human reasons he may have forgotten about it.

Clerk of the Committee: They were called last week.

Mr. Reville: I guess the other dilemma is that you had about 250 requests, did you not, and you took two days' worth of people?

Mr. Chairman: No. That is not correct. There were 250 briefs presented to us.

Mr. Reville: I see.

Mr. Chairman: Not that many requested time before the committee. I think the actual number of--

Clerk of the Committee: There were 22 on the wait list; every one was called and given the option to appear. Those that were scheduled were called again last week and reminded of their time and--

Mr. Reville: That is excellent. I am pleased to hear that. That leaves us with something to say to people who all of a sudden decide they want to appear. You have called everybody and that is great.

Mr. Shymko: If I may conclude now, I would like to congratulate--I think I speak on behalf of everybody--Mr. Jerry Richmond on his excellent summary of the key recommendations. Also, to express the sentiments of all of our committee, I certainly was shocked to hear about some of the problems you are experiencing, Mr. Chairman, and wish you strength. You certainly are a model of the determination with which you continue to serve your constituents. We wish you well and a speedy recovery.

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Mr. Chairman: Thank you very much. That is very good of you.

Mr. Polsinelli: On that note, I would like to prove to my whip that I was here today and move the adjournment of the committee.

Mr. Chairman: Mr. Polsinelli has moved the adjournment. All in favour? So moved until 10 o'clock tomorrow morning.

The committee adjourned at 4:40 p.m.



SELECT COMMITTEE ON RETAIL STORE HOURS

RETAIL STORE HOURS

THURSDAY, APRIL 23, 1987

SELECT COMMITTEE ON RETAIL STORE HOURS

CHAIRMAN: O'Connor, T. P. (Oakville PC)  
VICE-CHAIRMAN: Guindon, L. B. (Cornwall PC)  
Barlow, W. W. (Cambridge PC)  
Bernier, L. (Kenora PC)  
Morin, G. E. (Carleton East L)  
Philip, E. T. (Etobicoke NDP)  
Reville, D. (Riverdale NDP)  
Sargent, E. C. (Grey-Bruce L)  
Shymko, Y. R. (High Park-Swansea PC)  
Smith, D. W. (Lambton L)  
Smith, E. J. (London South L)

Substitutions:

Callahan, R. V. (Brampton L) for Ms. E. J. Smith  
Hennessey, M. (Fort William PC) for Mr. Bernier  
Knight, D. S. (Halton-Burlington L) for Mr. D. W. Smith  
Mitchell, R. C. (Carleton PC) for Mr. Barlow  
Polsinelli, C. (Yorkview L) for Mr. Morin  
Sheppard, H. N. (Northumberland PC) for Mr. Guindon

Also taking part:

Bryden, M. H. (Beaches-Woodbine NDP)

Clerk: Mellor, L.

Staff:

Richmond, J. M., Research Officer, Legislative Research Service

Witnesses:

From the Village of Fenelon Falls:  
Taylor, B., Reeve

From Paul Magder Furs:  
Magder, P., Owner, Paul Magder Furs

From the Beaches Business Association Inc.:  
Salvatore, A., Representative

LEGISLATIVE ASSEMBLY OF ONTARIO  
SELECT COMMITTEE ON RETAIL STORE HOURS

Thursday, April 23, 1987

The committee met at 10:08 a.m. in room 151.

RETAIL STORE HOURS  
(continued)

Mr. Chairman: We have a representative from all parties and a quorum present, so we shall get under way.

Our first presenter this morning is Barclay Taylor, representing the village of Fenelon Falls. Would you come forward, please? Good morning and welcome, Mrs. Taylor. Please have a seat in front of one of the microphones.

Our procedure is as follows. We ask you to either read through or summarize your brief to us, as you see fit. It is entirely up to you. Following that, members of the committee, and there should be more very shortly, would like to ask you some questions. Thank you for taking the time to come all the way from Fenelon Falls. Please proceed.

VILLAGE OF FENELON FALLS

Reeve Taylor: Thank you, Mr. Chairman and honourable members of the committee. Our municipality appreciates the opportunity to make our presentation to you today on this issue. It is one that has generated a lot of interest in our area. I will go through the brief, of which I believe you all have a copy and which is reasonably short.

My name is Barclay Taylor and I am the reeve of the village of Fenelon Falls in the county of Victoria. My presentation is being made on behalf of our municipality, which has recently received substantial material from the Fenelon Falls and District Chamber of Commerce directly related to this issue. I believe that chamber submitted a brief to this committee at an earlier date. I am a member in good standing of the Law Society of Upper Canada, although I am not currently engaged in the practice of law. I have for 10 years operated retail business operations in Fenelon Falls. I am also the current chairman of the Victoria County Tourist Board, although this presentation is not submitted from the county level.

Fenelon Falls is located on the Trent Severn Waterway at the junction of Cameron and Sturgeon lakes. It is located 16 miles north of Lindsay, 10 miles west of Bobcaygeon, 60 miles south of Haliburton and approximately 90 miles from Toronto by road. Fenelon Falls was originally established as a lumbering community; however, as that function's importance declined over the years, it became known as a service centre for cottagers, recreational boaters and the motor-touring public.

Due to its proximity to Metropolitan Toronto and the Golden Horseshoe market area, Fenelon Falls has a prime potential as a day use location on a year-round basis. It has a registered voter population of approximately 1,800. In excess of 30 per cent of our resident population is senior. Our community has six churches of major denominations within our boundaries.



A privately owned trailer park is located within the municipality and several camp grounds are located in close proximity, including Balsam Lake Provincial Park. Cameron, Balsam and Sturgeon lakes support several marina operations. Fenelon Falls serves as the main service centre for the village of Sturgeon Point, the community of Rosedale, cottages and seasonal residences, along with many permanent residences on our immediately proximate lakes and the heavily developed Burnt River and a surrounding agricultural area.

I would like to emphasize that Fenelon Falls is not a tourist area limited solely to the summer season. Our commercial area is open, without exception, on a year-round basis, though store hours are generally extended from May through September. As winter recreational opportunities grow, tourism has become an important industry in our community year-round.

Located in a long-established cottage area, many recreational properties have been converted for four-season use. Speaking personally, in my own retail operation I can verify that my receipts in the two-week period from Christmas to the first week in January match my receipts in any week in August, and I operate a ladies' shoe store. This trade is largely a result of tourist sales. Sno-1 is a major snowmobile trail running directly through our community, and we have cross-country skiing facilities.

Tourism, apart from being one of this province's major industries, is well established and studied in our area. Reference is made to its importance and function from a development focus, and from the standpoint of its economic and employment impact in several documents, which have been considered by our municipality, and they are listed in our brief for you. I have filed with the committee a copy of the county of Victoria official plan and a copy of the village of Fenelon Falls official plan and noted policies in those documents relating to tourism. All these documents emphasize the importance of tourism in our area and its impact on our area economy. Policy statements are included in our planning documents for tourism development.

The issue of Sunday and holiday openings has come before my council and previous councils for many years and on an annual basis for the past several years. In 1981, the municipality passed its first exemption bylaw under the Retail Business Holidays Act. In 1986, the provisions of that bylaw were amended and in 1987, our current bylaw was enacted. That bylaw has been filed with you today. The issue of exemption was discussed at several meetings widely reported in local media and our bylaw met with virtually no objection, either by personal presentation or in writing.

It is our belief, that Sunday and holiday closures should not be the subject of general legislation. It is our position that employment standards and protection for employees' rights can be dealt with, and properly so, within general employment standards legislation. In areas where the public demands and lifestyle dictates, business operations could be regulated by municipal bylaw pursuant to the Municipal Act, if closure is to be generally required or regulated on a limited basis. In this manner, where the economics of business do not require or opening is not needed from a service demand standpoint, businesses will not be likely to open on Sundays or holidays. However, where economics do require or service is necessary, such as in a tourist area, exemption will not be required to validate the activity.

We further maintain, in that the act covers only retail business and establishments, that it is effectively discriminatory where service businesses, trades and professionals, for example, are unregulated. It is interesting to note that subsection 3(6) exempts admission of the public to

premises for "recreational or amusement purposes." I cannot quote a recent percentage of consumer dollars spent in this province by women but I know it is a large percentage and I challenge this committee to dispute that retail shopping is not recreational or an amusement for those spenders of a majority of our consumer dollars in this economy.

In addition, the existing exemptions are not logical today. Why can a small antique store be open when a small bookstore cannot be? Why can a variety store selling tobacco, newspapers and probably Playboy be open when a boutique cannot be? Are one set of employees more sacred than another? Should the marketing of our handicrafts be given an advantage over the marketing of our manufactured goods? Should the retailer with a larger premises and a proportionately larger overhead be limited in maximizing his revenues? Our answer to all of these is no. The class of subsection 3(1) exemptions appears illogical.

Apart from these general concerns, our municipality strongly supports a review of the section 4 exemption. The acknowledgement that the development of tourism is a sufficient criterion for permissive local legislation is warranted. Letters that we received from many businesses in our community pointed out that tourists required goods and services of all kinds on Sundays and holidays and that, in fact, the operation of businesses on these days was necessary to strengthen the draw for tourists, hence developing the industry.

Our municipality maintains that while the general legislation exists, it is appropriate to have the onus on individual municipalities to provide exemption as differences in need are best assessed at the local level; however, the consequences of that onus are significant. The interpretation of the legislation, where local bylaws have been questioned in the courts, requires that a council has reviewed information sufficient to establish that business openings are necessary for the development of tourism. In today's sophisticated society, this means statistics, it means policy and it means growth projections and it means professional study. In many municipalities, of which I believe Fenelon Falls is representative, this onus is unreasonable from a cost standpoint.

The alternative we recommend would be to repeal the legislation and, if felt prudent, to include the power for a municipality to regulate Sunday and holiday openings within the provisions of the Municipal Act as a power to prohibit. In large municipalities where a need to restrict hours, classes of businesses or locations existed, the municipality would have resources to produce the background study in support of the local bylaw.

In addition, we would request this committee to strongly consider a mechanism whereby an area can be officially designated as a tourist area, thereby simplifying the characterization process and providing a foundation within provincial policy for support programs. Development of employment opportunities in our area is an issue that we must address. Sunday and holiday openings assist our businesses in creating seasonal employment opportunities and, as stressed to our council, revenues from these operations in peak periods contribute to the viability of business operations, thus eliminating the necessity to lay off employees in the off-season.

Our municipality is constantly pressured to provide hard services and soft services of a quality and to a degree that meet the expectations of the touring public coming from more developed areas and also our increasingly more sophisticated resident population who have chosen our village as a location for retirement. It is a hard economic fact that provision of these services

from roads to recreation programs results in an increasing mill rate, of which our commercial assessment carries a large share.

We must and the province should facilitate the economic viability of our business communities. When Sunday and holiday openings, for example, in July and August can generate revenues sufficient to cover one half of a business's annual payroll, the significance of the economic consequences of enforced closings becomes more evident.

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In review, the village of Fenelon Falls requests this committee to consider the following points:

1. That restriction of Sunday and holiday openings is not a proper subject of provincial legislation.
2. That restriction of Sunday and holiday openings could be incorporated within the provisions of the Municipal Act.
3. That provisions under the Municipal Act should allow for exemptions of a restrictive rather than a permissive nature.
4. That employment standards relative to Sunday or holiday openings be dealt with through employment standards legislation.
5. That classes of businesses presently exempt from the Retail Business Holidays Act are illogical and discriminatory.
6. That consideration should be given to developing a simple process for designation of tourist areas and that policies be developed for these areas in support of economic development.
7. That the onus be removed from small municipalities in a tourist area to prove a need for development.
8. That the economic factor in support of extended commercial activity be given serious consideration.

All of which we respectfully submit on behalf of our municipality. If I can assist you by answering any questions, I will be happy to try.

Mr. Chairman: Thank you very much, Mrs. Taylor. Yes, we do have some questions. First, Mr. Reville.

Mr. Reville: Thank you very much, Reeve, for coming. I very much like your village. I have been there many a time.

Mr. Sheppard: It is 1,800 population, is it not?

Reeve Taylor: Approximately.

Mr. Reville: You have a brand-new bylaw which, I understand, makes the whole village able to open on Sunday. Is that correct?

Reeve Taylor: We do have some restriction, in that we have allowed Sunday openings and holiday openings from noon on Sundays--



Mr. Reville: Yes, to five.

Reeve Taylor: --and we have exempted Easter Sunday, Christmas Day, Boxing Day, where it falls on a Sunday, and New Year's Day.

Mr. Reville: So as far as you are concerned, at the moment the legislation allows your area to do what it wants to do.

Reeve Taylor: It does, but we did not feel comfortable with the procedure our municipality had to go through to accomplish that, in the sense that, because of our high tourist potential and need for development and the cost factor of possibly having to retain officials or consultants to provide us with that tourism information, it was fairly onerous.

Mr. Reville: Did you get any help from the province on that?

Reeve Taylor: No.

Mr. Reville: Did you ask for some? We do have a Ministry of Tourism and Recreation, or something like that, do we not?

Reeve Taylor: That minister actually is from our particular riding.

Mr. Reville: That is Mr. Eakins, is it not?

Reeve Taylor: Yes.

Mr. Reville: Call him up.

Reeve Taylor: But we still had to act within the restrictions of the existing legislation. We had been approached by a group through their solicitor, not a local group, but a group which has a national interest, I am told, in Sunday retail operations. We had to frame our legislation very carefully and back it up.

Mr. Reville: Do you not agree, though, that where we have issues that are contentious, on which there is not consensus, it is totally legitimate for a group of elected officials to struggle mightily to come to the answer?

Reeve Taylor: I agree with that. I think part of the problem from our standpoint--and the standpoint of municipalities, I believe, in similar circumstances to ours--is that if the option for that determination were reversed, if rather than a general restriction with a permissive exemption there were general permission and a provision for restriction, those municipalities that felt it was an important issue could act accordingly.

Mr. Reville: We have had a quite a number of representations that have suggested to us that the province remove the municipal option totally from the legislation and that the province somehow decide which areas of the province should be exempted from the legislation and which should not. On the other hand, yesterday Mayor Eggleton from the city of Toronto made a fairly strong case that municipal override should not be removed. You are suggesting a different approach again. You are saying that it is none of our business basically, that it should be put in the Municipal Act and the municipalities can decide to restrict if they want to. I just want to make sure I understand.

At the moment, you have made your decision. It was a hard decision to make but you did make it. I assume your electors will view that how ever they view it.

Reeve Taylor: Correct.

Mr. Reville: Fair enough.

Mr. Chairman: I was curious about that in that your recommendation 1, which provides that the province get out of the situation altogether, seems to conflict with recommendations 2, 3 and 4, whereby you are suggesting other provincial statutes take care of the situation. I think the questions of Mr. Reville have cleared that up. You are just suggesting the Retail Business Holidays Act is not the appropriate vehicle to deal with all this.

Reeve Taylor: Correct.

Mr. Mitchell: Reeve Taylor, what are the current bylaws in Bobcaygeon and Lindsay? You refer to those two locations being relatively close. What is their normal practice with regard to--

Reeve Taylor: Neither municipality had an exemption bylaw and I do not believe either of them do to this date. It was considered by the council of the town of Lindsay approximately two weeks ago. Their determination was that Lindsay was a larger urban centre that did not have the same tourism impact as some of our smaller communities. They determined they would not pass an exempting bylaw to permit Sunday openings under the existing legislation.

There was a public meeting held in Bobcaygeon a week ago during local government week. I believe Bobcaygeon was in the process of drafting a Sunday and holiday exemption bylaw that would permit total Sunday openings with no restriction as to hours or anything.

Mr. Mitchell: Would theirs be similar to yours in that it would allow it year round or would they go for summer months?

Reeve Taylor: No, in speaking to Mr. Poole, who is the reeve of Bobcaygeon, it was a year-round exemption.

Mr. Mitchell: How many of the customers to your retail operations at Fenelon Falls would come from outside of the area? I am not talking about your cottagers or the rural area. I am talking about those from some distance who might have made a day's outing because they know, for example, that you are open during the summer months.

Reeve Taylor: I do not have them with me, but our chamber of commerce had done some work trying to determine that type of thing. In the summer months, apart from cottagers, it is possibly as many as 50 per cent and in the winter months approximately 20 per cent, people taking day trips from Beaverton, Peterborough, Lindsay and Toronto, without having a cottage destination.

Mr. Sheppard: Has the village of Fenelon Falls ever considered where maybe they would want Sunday opening from when the time changes in the spring until the time changes in the fall?

Reeve Taylor: Our previous bylaws--there has been quite a process of development. The first exemption bylaw--I believe it was in 1981--had that specific framework, from the May 24 weekend through to Labour Day. In 1986,

that was extended slightly. Our business community this year requested the year-round focus due to economic considerations and generally the demand from customers, whether they be vacationers or residents of the community on a year-round basis.

Mr. Sheppard: I came late. Did I understand you to say that you felt the business of Fenelon Falls would go up 50 per cent if you were open on Sundays?

Reeve Taylor: That would be nice but I do not think I said that. I hope I did not. We have received letters from many businesses in the village. I refer to an analogy: One business provided us with figures where Sunday and holiday openings provided it with revenues equal to one half of its annual payroll for the business operation and pleaded on that point that as a business consideration, it would like to be able to be open the holidays too.

Mr. Sheppard: Do you have a business right in Fenelon Falls yourself?

Reeve Taylor: Yes, I do.

Mr. Sheppard: What business do you have?

Reeve Taylor: A shoe store.

1030

Mr. Philip: I have some sympathy with your problem. At the same time, some municipalities have suggested to us that if we were to go your route, the route you are suggesting that might be most applicable for your community, which is a small tourist community, the nearest other community being 10 miles away that is also a tourist community--are there perhaps 20 stores in your community or is it a little larger?

Reeve Taylor: There are approximately 80.

Mr. Philip: Are there 80? I have only shopped in 20 of them. I have been there a few times.

It has been suggested that it would actually be coercive on municipalities that wished not to have Sunday openings. The argument is that in a more isolated community you would not take away business from an adjoining municipality, but if the municipality of Peel, for example, decided to have wide-open Sundays, then the city of Etobicoke, even though it and its residents did not wish to have wide-open Sundays, would be coerced into having them because they could not afford to lose a few million dollars worth of business.

Do you have any solution for that? How do we come to grips with the legitimate problem of a municipality such as yours, that wants to do something and perhaps there is very little objection to it, and has to undergo a very expensive process, with that of the larger municipalities that say: "You can't allow Hazel and her friends to call Mississauga a tourist area. Otherwise, Etobicoke and everybody else is going to be wide open and our residents don't want that." That has happened in British Columbia where municipalities that did not want wide-open Sundays had to have them because they could not afford to lose the business once the adjoining municipality opened up.

Reeve Taylor: At our level, having discussed it, it is a perfectly



valid concern and we do not have a simple answer. We acknowledge that there are definite differences between communities such as ours or isolated communities, and communities in a metropolitan area. It is part of our thinking that in those cases, it should be left to those municipalities to justify their own differences, that there really is no need for, nor should there be the restriction from the provincial level to make that decision for them.

We find in our county, for example, that our municipalities work closely together to solve problems where there are common concerns. Those common concerns are sometimes diametrically opposed, but within areas we usually find that can be resolved.

Mr. Philip: Was there opposition in your community at all? Was there a group opposed or organized against the bylaws?

Reeve Taylor: Not this year at all. In all honesty, in 1981, when the first exemption was passed, and I was not a member of council at that time, there was some concern from some of the church groups in the community. There had not been Sunday or holiday openings until that point. With a limited opening allowed for a number of years, I believe the opposition's concern or the concerns of the people who opposed the openings have been resolved because they have seen that disaster has not been created. I think that is why, a period of five years later, those people in residence in our community who had those concerns now are not opposing it.

Mr. Philip: May I ask you what your costs were? Have you calculated your costs of going through the process of jumping the hurdles, of doing the consulting studies and of hiring the consultants to achieve your objective?

Reeve Taylor: We were fortunate in that some of these studies I have referred to here, obviously from the dates were existing within our municipality. I cannot say we went out and spent \$10,000. However, through the consultants we retained, that figure would not have been an unreasonable one, had we had to have had a totally new study written for it.

Mr. Philip: But what you are saying is that, being a tourist area, you probably had done the kinds of studies anyway for other reasons, and therefore it really did not cost you very much to use the process that now is in place to achieve the objectives you have reached?

Reeve Taylor: In dollars, in our case I will be entirely frank; we were lucky. I know that there are other municipalities who would not be in that position. Townships, for example: The focus of many of these studies--because we are a small urban centre--provides us with statistical information. We are totally surrounded by the township of Fenelon that has miles of shoreline, many marinas and many tourist-related businesses and these studies do not make any reference particularly to that municipality, yet they have a real concern about the operation of their businesses scattered throughout the township.

Mr. Philip: Marinas are exempt anyway.

Reeve Taylor: Marinas are. That perhaps was a bad example. There are clusters of businesses, galleries, gift stores of a general nature, clothing stores just scattered.

Mr. Philip: The suggestion has been made that rather than giving

wide jurisdiction over to municipalities, because of the problems it would create in the large urban areas and throughout southwestern Ontario, perhaps we could identify those products that tourists buy such as furs. For example, in Windsor we were told that in the tourist area, the major sales were in furs and crystal ware or cooking ware, art work and books and that by opening up those areas in the present act, we could achieve the objective some of the people are most concerned about without creating the problems of Etobicoke being forced into a wide-open Sunday because Mississauga wants it.

Would that be the halfway ground or the compromise that might be acceptable to the people in those surrounding areas around Fenelon Falls that you have just talked about?

Reeve Taylor: I think it definitely would be a step in the right direction. We do feel that the classes of goods and services that are exempt under the act now somehow do not make sense. It would be an horrendous job to canvass the province and decide what should be exempt and where. I personally would not relish that.

Mr. Philip: But we do have a fairly good idea of what Americans buy in Canada when they come across the border. We have that from Windsor which has done some studies on that and from other border cities.

Reeve Taylor: In our community, which is a small one, granted, and has different requirements and characteristics from larger urban centres, I can assure you that if people come through on a tour or on a holiday, if they have \$1,000 they will spend it and I would be hard pressed to say that one category of goods is any more likely to be purchased than another.

Mr. Callahan: I understand it is 1,800 people. Do you have very many chain operations there?

Reeve Taylor: One Canadian Tire.

Mr. Callahan: You have one Canadian Tire and the usual number of supermarkets, I guess. Basically, the majority of these businesses are what one would classify as mom and pop operations?

Reeve Taylor: Yes, I think that is correct.

Mr. Callahan: There are one, two or three people who own and operate it? With the chains such as Canadian Tire and the supermarkets being open on Sunday, do you have any statistics to say that the majority of those people working on Sundays are part-time employees as opposed to full-time employees?

Reeve Taylor: I do not have statistics from my personal knowledge of the people who own those stores. Some of the employees working on those days are their full-time employees and they alternate weekends, whatever. They do hire additional staff for the busy peak periods. We have a letter that was filed, I believe, with the Fenelon Falls Chamber of Commerce brief from our Canada employment centre located in Lindsay, attesting to the fact that it cannot meet employment demands, part-time or otherwise, for the Fenelon Falls area specifically because of its tourist nature.

Mr. Callahan: During the summertime, what would be the hours of these smaller shops? Do they close at six o'clock?

Reeve Taylor: On a weekday basis?

Mr. Callahan: On a Sunday, let us say--or during the week, first of all.

Reeve Taylor: In the summer, most would be open until six and Thursday through Saturday until nine. On holidays and Sundays, our bylaw restricts the hours from noon to five on Sunday and nine to nine on a holiday, should it be a Monday.

Mr. Callahan: With the chain stores on Sundays, are there a large number of people seeking access to those stores during that time?

Reeve Taylor: It would be fair to say it is a large number.

Mr. Callahan: In some of the larger supermarkets in the metropolitan area, you could shoot off a cannon and the only person you would hit would be the person stocking the shelves.

Reeve Taylor: It is all relative. Neither of our two supermarkets are probably the size Metropolitan Toronto would be accustomed to as a large store.

Mr. Callahan: Does the situation change after the sun decides to disappear? I am talking about the winter period.

Reeve Taylor: No.

Mr. Callahan: These stores are still active?

Reeve Taylor: Absolutely. We have a high demand for commercial locations. If a business is put up for sale, it keeps operating. I cannot think of one business in the past three years in our community that has closed or people have retired from. We have a very strong commercial core.

Mr. Callahan: Finally, you place some emphasis on the council's deliberations being concerned with the heavy burden in terms of assessment that was borne by the commercial sector of your community. Was that more or less at the top of the decision-making process?

Reeve Taylor: No, not at the top. It was a real concern, but probably it initiated from council as much as from business. We have a real appreciation for the amount of tax dollars they pay the municipality, and with the extension of all services in our community, they keep bearing a heavier and heavier burden. We felt it was up to us to give them an opportunity to make their businesses more viable so that they could bear that burden more easily.

Mr. Callahan: The comments I have heard in the brief time I have been on here revolve more around the question of maintaining one day of pause to be with your family, as opposed to any of the other arguments. Have you any information to indicate to us whether that has caused concerns in your municipality or has that been the subject of any complaints to council members or to the council?



Reeve Taylor: Specifically related to this issue, we had it on our agenda at three council meetings. All our meetings are open and they are generally well-attended. The media reported the issue in the papers. We had absolutely no reaction from a negative standpoint on that basis or any other in our community. Those businesses that wish not to open because they need a day of rest, or their employees do, usually just tend not to open.

Mr. Callahan: Did you not find that some of those businesses that stayed closed complained about the fact they were losing business because of that?

Reeve Taylor: They generally acknowledge that this is their decision, that they probably are losing business, but if it is their choice and they make that choice accordingly.

Mr. Sargent: Is this the first time we have had a municipality go cold turkey and say, "We are going to go"?

Mr. Philip: I doubt that.

Mr. Sargent: My adviser, Claudio the lawyer, tells me there is nothing we can do about it if they decide to go. They are autonomous in every respect. They can do what they want to.

Mr. Reville: Not in every respect.

Mr. Philip: Claudio did not read the act very closely then.

Mr. Sargent: What does the chair rule then?

Mr. Chairman: I do not know that it needs a ruling.

Mr. Philip: Somehow, I think Claudio's advice was a little more detailed than that. If it was not, I certainly--

Mr. Sargent: What is the position of the committee now? They have decided. It is totally legal, they are autonomous, they can do what they want to. What are we talking about?

Mr. Chairman: In fairness, I do not think they have decided that. They have availed themselves of subsection 4(2) of the act and declared their area a tourist area, which is--

Mr. Sargent: So what do we do now?

Mr. Reville: We are just hearing from them; we are hearing their views today.

Reeve Taylor: Do not put me in jail.

Mr. Sargent: I think they have gone the proper route. They are a tourist area. They have made it so by a vote of council. They represent their people and they should be in business. The same with the city of Toronto. If they want to go that route, they can become a province of their own.

Mr. Shymko: But they had no referendum.

Mr. Sargent: I would say you are in business then.

Interjection.

Mr. Sargent: I do not know if they are willing.

Mr. Chairman: Do you have any questions, Mr. Sargent?

Mr. Sargent: I am asking you.

Mr. Chairman: I do not have any, no.

Mr. Reville: Can you make a ruling, Mr. Chairman, and settle this matter once and for all?

Mr. Chairman: If Mr. Sargent has no questions, I think we should move on. You made a statement and--

Mr. Sargent: What is our position then on the unanimous vote of Fenelon Falls to declare itself a tourist area and have Sunday shopping? What is our position?

Mr. Chairman: I do not think it is up to us to take a position. They have availed themselves of subsection 4(2) of the act, which any municipality in the province is permitted to do. We are simply hearing their views on the act and the whole question here this morning.

Mr. Sargent: Our message to the rest of Ontario then is if anyone wants to go this same route, he can.

Mr. Chairman: Yes.

Mr. Sargent: Thank you very much.

Mr. Chairman: Thank you, Mr. Sargent.

Thank you, Reeve Taylor, for your views this morning. They have been most helpful.

Our next presenter is Mr. Magder, whom I see in the audience. Would you come forward? Good morning and welcome to the select committee, Mr. Magder. We have been given, I think, three letters from Mr. Magder, one dated March 6, one dated April 10 and one dated April 18, which should be in your material. I am told also a further exhibit, O19A, is in your earlier material. Welcome. Perhaps you could commence by telling us which side of this issue you are on. Do you think you could do that? No, I am kidding.

#### PAUL MAGDER FURS

Mr. Magder: I think I am on all sides of this issue. I will maybe comment and then I could read my material, if that is all right with you?

Mr. Chairman: I am sure you are familiar with the procedure. You have been here awhile. Proceed as you see fit.

Mr. Magder: I think you have to be fair. There are both sides to this issue. There are people who do not want to work on Sunday, and I agree with that. For instance, in my case, I think we can make Sunday special by paying a premium as far as people working on commission are concerned. Also, in my case, we make it voluntary and we pay time and a half.

As I have pointed out to people--not in this material--if a motorist kills a pedestrian, you do not outlaw driving cars; you punish the particular motorist who has committed that crime. If an employer forces an employee to work on Sunday against his wishes, then he should be punished. That is an issue that never seems to be brought up, which I think is wrong and terrible.

For instance, in the Dufferin Mall, businessmen are forced by their landlord to work until 10 p.m. every evening, Monday to Saturday. I think that is deplorable. We all talk about family life and everything. I think that keeps many mothers and fathers, especially in small businesses, away from their families, far more so than the possibility of their right or free choice to open on Sunday.

I think limited hours is something this committee should look into. I understand the landlord will penalize the merchant heavily if he does not go along with his lease. I think this is wrong. In the United States there seems to be more flexibility, and I cannot see why we cannot learn from America. At least, we should look at the good things in America, not the bad things, but let us look at the good things there.

1050

There is so much to say on this. I think the government's responsibility is to protect people from being forced to work, and I think in the sense of fairness, which I believe we all believe in, we should have a pause day for every individual, not just retailers. Strange, we are talking about retailers, but anybody's pause day should be guaranteed, and it does not necessarily have to be Sunday. It could be Saturday. It could be Friday or whichever day. In my personal case, I would like to take Wednesdays off, actually. So you would not infringe on anybody's personal religious feelings. I think this might be an approach. Just to choose Sunday does discriminate. Even the Supreme Court says it discriminates, although it says it is justifiable, but it does discriminate.

Also, as I said before, businessmen should be protected from being forced to open. Now, my case is rather unique because I am in a Chinese tourist area, as you know, and I am prohibited from being open. Many people, including myself, forget that I actually won in court. Judge Syd Harris stated that to make a tourist area that prohibits me from being open is discriminatory. The government appealed it and I lost and, of course, I lost all the way up to the Supreme Court, but that does not change it; it is discrimination.

In fact, there is something that is rather unique in my particular area. I have done some personal research and have found that there are many merchants who are actually breaking the law but are not being charged, even under the bylaw, and I have told by police officers--although I believe the Attorney General (Mr. Scott) states that police officers act only upon their feelings about whether I should be charged. I hate to say this, but this is not true, because I have even been told I have been chosen. I am the chosen one to be charged every Sunday. I do not know who directs the police to charge me. I am not entitled to this information in Canada. In the United States, with freedom of information and the right to know who your accuser is, I would be entitled to this, but I am not entitled to it.

However, I think this committee has to go ahead and do something about this issue. It just cannot keep sweeping it under the rug. Either you have to throw out the law completely and leave it like that, which I think is wrong, because that is dangerous, because then you will have many people who are



forced to work. In fact, funnily enough, the way this law is--I have not got this in my material, but there is so much to say on this--this law actually forces many people to work against their wishes.

I will explain why. When the mayor of Toronto made Harbourfront a tourist area, he said all these stores could open on Sunday, and that was it. I believe there were very minimal regulations, but I do not believe there is any regulation that people could not be forced to work, and I am sure there are many employees at Harbourfront who were told by their bosses: "We are open Sunday. You have to work Sunday whether you like it or not." This is the way that the law actually forces people to work, because there are no provisions, especially in the case of this bylaw.

May I read my presentation at this point? On March 6, I mailed a presentation to the select committee. I did not hear about the select committee. I heard about it only by accident. You said it was advertised well, but I guess I did not see it.

"Dear Lynn Mellor:

"The Retail Business Holidays Act has been ruled by the Supreme Court of Canada as valid legislation and upon reading the decision...." I have not read it completely; I must comment on this. But I noticed one point that I thought was rather strange. The court said that the law was to protect workers from being forced to work. Apparently, the law really has nothing to do with workers. It has to do with retailing. I do not know whether you people here are aware; I could employ 5,000 fur workers legally on a Sunday and make fur coats. I may not be allowed to retail them legally, but you are allowed to work.

In fact, I had an irate General Motors worker phone me up and he said he was getting in touch with Ed Broadbent--he was really furious about this. He said: "You know, we work at General Motors on Sunday. We have to work. We do shift work and nobody talks about that." He is just showing how unfair the law is.

In fact, I had a very upset projectionist call me just before Christmas. He felt quite sympathetic to me. He says, "You know, here I am forced to work Sundays and Christmas Day"--for all these people who are against Sunday shopping, I suppose--"and nobody even cares about my family." I am making just a few comments here.

"Also, I believe all provinces except Prince Edward Island intervened on behalf of the Ontario government to help in their position." This was in the Supreme Court of Canada. "Therefore, unless the Retail Business Holidays Act is amended or deleted, I feel"--here is another ridiculous situation, an absurd situation--"the duty-free shops at the airport must be prohibited from opening on Sundays.

"By opening at 6 a.m. in the morning, it forces many women to get up as early as 4 a.m. to be at work on time. Also using the same argument that Sunday shopping does not increase sales, only takes away sales from other days, in this case it takes away business from city merchants who are not allowed to stay open on Sunday." I wonder. We do not have access to our accuser or to know what is going on, but sometimes I wonder if it is not the very influential, powerful people, the duty-free shops like this situation of all the stores being closed on Sunday in Toronto, because after all, it gives them a beautiful monopoly on liquor and--actually, liquor is not a problem in

Ontario because it is handled by the government, but let us say--on jewellery, perfumes, colognes, cigars and cigarettes and things like that.

"Of course, the federal government finds these stores to be very profitable...." I do not know if you aware that the federal government makes more than 20 per cent clear profit in the duty-free shops. Who knows? Maybe it likes this situation. It is very lucrative for the federal government in this particular case.

In fact, the Ontario government, theoretically, probably loses money because there is no provincial tax paid in these stores, I believe. Just the federal government gets a big, big take here.

"The crown attorney calls me an anarchist, but this government is dishonest.

"It seems that when government can make large profits"--in this particular case, it is the federal government more so than the provincial--"by rental and taxes, it is quite all right for them to force people to work even as early as 6 a.m. on Sunday morning at regular pay." I have done research on this at the duty-free shops. They do not get premium pay on Sunday. They get premium pay on holidays, but not on Sunday. They just pick their shifts; they rotate their shifts, probably like they do in other industries. As you can see, there seems to be some kind of double standard here.

That is my first brief. Now the second one--there are so many briefs here, I cannot keep up with them myself. Here is the one for today. Then, if you want, I can comment on other things here. This is the brief meant for today.

"Dear Lynn Mellor,

"I would like to present in addition to my brief on March 6, 1987, a copy of my April 10, 1987 presentation to the economic development committee at city hall."

Would you like me to read that or pass on that? Okay.

This is to the economic development committee at city hall. They were discussing the Retail Business Holidays Act, and I believe the mayor has spoken on this.

"Attn: Christina Dodds

"As everyone is aware, I am opposed to the government telling me when I can shop and when I can work." The issue is not only working; it is shopping.

"My particular concern is the tourist-designated area of Chinatown West. I am being charged every Sunday for a 'victimless crime' (as quoted to me by a police officer). It is interesting that a Chinese customer pointed out to me how she felt the law was so unfair because the Chinese stores who are allowed to open, cater mainly to the Toronto Chinese population." They hardly do any business with any other people, except their own people. "Whereas my store sells approximately 75 per cent to tourists."

When I say tourists, I mean tourists from other parts of Ontario and from the United States. I would say that maybe 50 per cent of them are Americans because of the way our exchange rate is and because Canada is famous

for furs. In fact, this honourable gentleman pointed out how much tourist business they do with furs in Windsor. Without the tourists, I probably would not be in business right now.

The balance would be people from South America, Mexico, Central America, Europe and Germany. Actually, we have tourists buying furs even from the Soviet Union, from Yugoslavia, even from the Iron Curtain countries--not very many but a few--who come here visiting their families and, of course, from the smaller communities in Ontario that cannot afford fur stores. It is not economical for them to open up fur stores, so they come down to Toronto. Just like we may go up there for handicrafts, they come down here for fur coats.

1100

I have been asked why I do not move to Harbourfront, since it is legal down there. Okay, fine. I could not find the material, but apparently tourist business is about 25 per cent at Harbourfront. I have heard this, but I could not find it, so I cannot show it to you, but I did hear it. I think I heard somebody mention it at one city hall meeting. Even if I move to Harbourfront, theoretically I may lose 50 per cent of my sales, all things being equal. It made no difference to the tourist. That is not going to work in my particular case, so this will not work, as far as I am concerned.

Why were not all stores in Chinatown West tourist area allowed to be open, not selected ones? In this particular case, I am attacking city hall, not the provincial government. Even Les Kingdon, the full-time paid lobbyist for the People for Sunday Association of Canada, feels that I have a strong case, as the law does discriminate against me according to section 15 of the Charter of Rights, which I have not been heard on and I hope will be heard on. This was not allowed to be heard in the Supreme Court; that is why we have to start all over again. I would be happy to drop my lawsuit against the city if Chinatown West was treated as other designated tourist areas, such as Windsor and Niagara Falls, Ont. In nearly all other designated tourist areas, I would be allowed to open legally, but not in Chinatown West. Just a point of information: my store actually predated Chinatown.

I think the problem, which I will point out, somewhere along the way here--I will give you an explanation of that. Approximately 95 per cent of the products I sell are made in Canada, and they do not cause cancer, like cigarettes do. They are allowed to be sold. In fact, I could open up a tobacco shop legally and sell cigars and tobaccos from all over the world and hire lots of people, and that is all right. I do not know if you are aware what is going on now--they are going to outlaw cigarette advertising. I do not think many people die from Sunday shopping, but there are sure a lot of people who die from tobacco products.

Also, I know for a fact that many merchants are breaking the law and not being prosecuted. We have done some personal research and we have found there are about 21 very small merchants in the area, not necessarily in my division, but across the street, who are actually breaking the law. Under the by-law, they are allowed to close Wednesday if they are open Sunday, but apparently they are open seven days a week. They seem not to be heard or seen. Nobody seems to bother them.

Anyway, what the Attorney General (Hon. Mr. Scott) says, that everybody has been prosecuted, is not true. That is an untruth. In fact, I know of merchants out in Mississauga who were open--I do not know if they are open now, but prior to the Supreme Court decision--every Sunday. They were maybe



being cautioned, but they were not being charged. The law has not been evenly handled in that respect. Even the police feel that is unfair. I have gotten to know all the police very well.

Possibly, the problem is that the Retail Business Holidays Act was enacted in 1975--and I think this is the problem you have to address here, because times have changed, everything changes whether we like it or not; this is life, this is what life is all about--when the true tourist area business, in the tourist areas such as Muskoka and maybe Niagara Falls, and even in my case, our tourist sales were probably around five to 10 per cent. It really was not a problem at that time. Maybe that is why so many people did not pay too much attention to it. There was a problem of people being forced to work who did not want to work, at that time.

Times have changed, as Toronto has grown and changed. There are new hotels, and the convention centre, a new improved art gallery, and now we are getting the domed stadium--you can go on and on and on. Of course, in the 1950s, we were not even allowed Sunday sports.

Therefore, the city of Toronto must look at the situation as it is today, not as it was many years ago. The 1970 government report on Sunday observance legislation undertaken by the Ontario Law Reform Commission which precipitated the Retail Business Holidays Act--the commission stated on page 348, "in the interests of fairness among competitors, the exemption order should not be capable of being limited to particular sub-areas within the tourist area nor to specific stores or business establishments, nor should it be restricted as to the time of day (either specific times or maximum number of hours per day)."

This just bears out Judge Sydney Harris's point. When I was in court, he said: "A tourist area is a tourist area. Either it is a tourist or it is not a tourist area. If it is a tourist area for magazines and periodicals and handicrafts, it is a tourist area for everything else." This is where the city of Toronto was very remiss according to the way I see it. They even went against the provincial perception of the law or what it should be.

"Please refer to my application from my lawyer on March 10, 1987.

"If no changes are made"--this is to the city--"I believe regardless of what happens with my court case against the city, business taxes and/or property taxes should be reduced accordingly. For the businesses who are prohibited from doing business seven days a week."

I feel if they are not going to allow you to do business seven days a week, why charge you taxes? That is also discriminatory.

"I hope you will give this presentation consideration."

I will continue with today's presentation. I may be slightly repetitive here and excuse me if I am. This is a presentation in addition to my brief on March 6, a copy of April 10 presentation to the economic development committee which you have heard. I ask for your consideration. You have heard it.

A comment on the suggestion by Toronto's Mayor Art Eggleton: During these discussions the mayor suggested they may allow clothing stores to open; that is, the province allow clothing stores to open as they do the other exemption. This is rather interesting. I really commend the mayor in this

case, because his idea would help change and yet not change everything radically at this point. At least there would be progress.

I started thinking myself. I thought: "My God, when I go on a holiday, I usually like to buy clothing because I do not have time to buy clothing. I am very tall and I have the darndest time getting clothing anyway." I find this is true with many tourists. Actually, one of the most sought-out commodities is clothing. In fact, I had an American in a few weeks ago. I do not know what happened but he needed a tie for a convention the next day and he was furious. He said: "I could only buy a tie down at Harbourfront. It was either the hotel or Harbourfront and they wanted \$40 for a tie." He just needed it for this one day. He forgot his tie or lost it or whatever. Anyway, somebody loaned him a tie. It is stupid. You cannot buy clothing on Sunday. It does not make sense.

As a provincial election is imminent, or may be imminent, the government would not be able to address this issue or probably will not address this issue. It may consider this issue but it probably will not do anything about it because it is pretty political. However, in the meanwhile, the suggestion that clothing stores and book stores be allowed to open makes sense. I believe the mayor also suggested book stores. The committee did not suggest the clothing stores, in the end, but the mayor did. I think the mayor is being very fair in this particular case. He is not taking one narrow point of view on it.

The interesting point about clothing stores is this would get city hall off the hook and the province off the hook as far as Paul Magder Furs is concerned, because I am selling clothing. Furs are considered clothing, which they are.

Please refer to the fifth and sixth paragraphs to which I have spoken. I have mentioned this. "Even in our case our sales were five to 10 per cent tourist-oriented." I pointed out, "Times have changed....Our business has increased to approximately 75 per cent tourist-oriented." Therefore, city hall must look at this differently.

"I hope you will give this presentation your consideration."

Please ask me any questions.

Mr. Chairman: I have five or six on the list. We are already a little bit behind time. I ask you to keep that in mind when asking your questions.

Mr. Sheppard: Did you go to city hall to get special permission to stay open?

Mr. Magder: I have tried a few times. I have tried recently and I tried years ago, at the same time, I believe, as the Eaton Centre, Harbourfront, the Bay-Bloor businessmen and even the Beaches. At that time, the mayor felt that Harbourfront had a good case but that we did not and that is it. Later on, actually quite recently, I have also applied again.

Mr. Sheppard: In the past six months?

Mr. Magder: Yes.

Mr. Sheppard: And the answer is no?

Mr. Magder: They really have not given an answer. In the meantime, they are discussing the total problem. I believe they discussed it so they could make their presentation for you people.

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Mr. Sheppard: My second question is, why are you fighting this? I have watched it on television and I have read it in the paper, and you continue to fight and appear in court. Why are you keeping up this fight? It is costing you money.

Mr. Magder: It is costing me a fortune. In fact, I could be destroyed completely. I could lose absolutely everything I own, have and possess. I could be left as naked as the day I was born. The thing is, I have to live with myself and the law is wrong and unjust and unfair. It is fine; it is the law.

Mr. Sheppard: You have to obey the law.

Mr. Magder: As one gentleman, John Clubine, mentioned in his brief, there was a black woman who disobeyed the law in Montgomery, Alabama, many years ago because she felt the law was wrong and eventually she had it changed. It took a long time. I feel this is the only way you will change a law. I am sorry I do not remember the judge's name. I did win in the provincial court, and then when I went to county court the judge found that the law was valid and I was guilty. The crown attorney called me an anarchist. I have been called an anarchist by union leaders and everybody. He suggested I get a \$5,000 fine and three months to pay. My lawyers commented to the honourable judge that I was challenging the law in the proper and correct manner. This is the way you do it.

By the way, many years ago--you mentioned tourism here--I approached Larry Grossman. He was Minister of Industry and Tourism. At that time, our tourist business had evolved to possibly 50 per cent. It was not as high as it is today, but it was not five per cent or 10 per cent. It was a problem with us because we needed the tourist business. They have the money, their dollar is stronger and so on. He said: "We really sympathize with you but the New Democratic Party has the balance of power. We cannot do anything." In effect, without saying it, he said, "Get us in with our majority and we will see what we can do."

Mr. Shymko: That is on the record.

Mr. Magder: I do not know whether it is on the record, but that is what happened to me and I do not lie.

Mr. Philip: What did he do when he got the majority?

Mr. Magder: Nothing. He passed the buck. In fact, they threw the ball and eventually let the courts decide. When I met Larry later on, he said, "It is up to the courts to decide." Then it went all the way up to the Supreme Court.

Mr. Philip: Larry did not even ask us about it.

Mr. Sheppard: I have one short question. You said 75 per cent is from tourism. Is that from south of the border? Is that all from Ontario?



Mr. Magder: No, I did mention that before. I am sorry you did not hear. I would say 50 per cent of that is from south of the border and maybe 10 per cent--I am not 100 per cent on but give or take a point or two--would be from Sault Ste. Marie or Sudbury or Belleville.

Mr. Sheppard: Fenelon Falls.

Mr. Magder: Or Fenelon Falls. Yes, we have very nice people up in Fenelon Falls. In fact, I a few from Fenelon Falls even sent me donations to help in my cause, besides some very upsetting letters. I would say that maybe 10 per cent would be people from Europe or other parts of the world, mostly Europe, but we do get some South Americans and Central Americans too.

Mr. Philip: I am interested that only 50 per cent of your business is from south of the border because in Windsor we had higher figures than that. I am wondering, from your experience in the industry and in the trade, what percentage of furs sold by retailers such as yourself in Ontario would be foreign-based sales?

Mr. Magder: I do not know, but it depends where the merchants are selling. For instance, if they are in Maple Leaf Village, they probably sell 80 per cent or 90 per cent to Americans. In Acton, I do not know. They probably do not sell to that many Americans because it is more for the Toronto people. They run up to Acton on the weekend. I do not know but it is quite considerable. In fact, the American influence has helped us tremendously. It has actually helped me cater to Canadians in a far better way. It almost shows what free trade can do to help everybody. Some governments do not seem to believe in it. They talk about it but they do not believe in it.

In my particular case, I will tell you what happens in my store just for your information. We have the American trade and the oriental trade. For instance, the oriental people are very tiny and very small. Of course, we have the items they like. This helps us help Canadians who are very tiny and very small. We really do not have that much business, enough business to warrant handling this merchandise.

Conversely, I would say the average American woman is possibly three inches taller than the average Canadian woman and they like these real long coats. Now, I can help the tall Canadian woman who comes in or maybe the oversized Canadian woman who comes in because the Americans tend to be taller and maybe a little bigger. It has really rounded out the business and made it far more interesting and has actually helped me help Canadians more and possibly even keep the prices down for Canadians, because let us face it, the more business you do, the easier your buying is and the easier it is to keep your prices down and give better service.

Mr. Philip: You learn something every day. I did not realize American women were taller than Canadian women.

Mr. Magder: On average, I find that.

Mr. Philip: Can you give us some rough feeling as to what percentage of the tourist dollars are actually brought in on the Sundays you are open?

Mr. Magder: Sundays are rather interesting because I would say more tourist dollars are brought in Sunday. Where Sunday really helps: We get tourists in on Saturday. A fur coat is a big purchase. Quite often, they like to have their family involved or at least the husband and wife involved

because the poor guy is probably paying for it anyway. They have to think about it and sometimes they come in Sunday. If they are tourists, they have been here just the weekend or for a convention. They may think about it over Saturday night and then they come in on Sunday and make up their mind if they still like it. It is a big purchase. I know when I shop for something big, I may go back many, many times and think about it. "Should I or should I not?" You have this guilt complex and everything else and then you say, "What the heck."

Mr. Sheppard: That is when you are buying the black Cadillac.

Mr. Magder: No, I have no black Cadillac. I do not like Cadillacs. I have an old pink Buick.

Also, we get Americans who come in on Sunday and then they say, "I will think about it." They write down the numbers and phone in from the United States and give us their credit card. I do not know whether you gentlemen are aware of it, but Canada exports a phenomenal amount of furs to America in the manufactured state. This is one thing we are good at. In effect, Americans pay very little duty on furs when they get them in. The furs are not too expensive. I think their markup structure is higher and I think they work it more like the jewellery business in the United States.

Mr. Philip: I am sorry if I am going into detail like this, but I am trying to get a handle on what would happen if you were closed on Sunday and how it would affect your business and other fur stores.

Mr. Magder: I cannot say how it will affect other furriers and I do not think that is my personal problem. My problem is Paul Magder Furs and nobody else's. You brought up an excellent point because we did--I will tell you what would happen because it did happen. We were allowed to open legally when I won under handicraft. I have actually won three times in court. I won in the provincial court under handicraft and then I won in the county court and then I lost in the Supreme Court. In the meantime, at that point I was allowed to open legally for a period of time.

I was fined for giving jobs to people. That is a crime in Ontario. I gave jobs to more than three people. I was convicted of that. Even the judge agreed I helped the community, but anyway, the crown attorney says, "Give it to him." It was a \$1,200 fine but that is immaterial.

What happened is, when I lost in the Supreme Court of Ontario, of course I thought, "I cannot afford"--a lot of intimidation is going on about this, not by the gentlemen here but mostly the crown attorneys. I could tell you a case that happened the other day; the crown attorneys are not being too honourable. What happened is that I closed on Sunday. Our sales fell 50 per cent. You just cannot afford a drop of 50 per cent in sales.

There is the threat of a \$10,000 fine. I asked the police, "What will happen?" "A \$10,000 fine." That is not true because it is up to the judge. If the judge wants to give you a dollar fine, he can give you a dollar fine. Nobody can decide the fine but the judge. We can all suggest what fines can be but the judge makes the final decision. What am I going to do? I am damned if I open; I will get a \$10,000 fine according to the police. My lawyer stated, "If you lose once, the first time they are easy on you and then after they will throw the book at you." My lawyer even encouraged me to close and fight out this thing.

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A furrier friend of mine phoned me up and said: "First, do not worry. I am not after you for money." When the cash flow is bad, everybody is after everybody for money. He said: "I did not call you about that. I was watching the CBC last night. I was watching television last night and it was ruled out in Alberta. The Lord's Day Act was considered unconstitutional. It is a violation of the Charter of Rights."

That is when I started over again, for two reasons. First, because the Lord's Day Act was thrown out and this law is based in many ways on the Lord's Day Act. I know we do not mention religion but it is quite similar. Personally, I think the Lord's Day Act was a more honourable law because at least everybody had to be closed under the Lord's Day Act, or they were supposed to be closed. It was not being enforced. That is the difference.

I decided to open. With business conditions so bad, in my particular case it would be very devastating if I closed on Sunday. Other merchants work their businesses differently. For instance, my hours are fewer than at the Eaton Centre. I do not want to work nights. My staff do not want to work nights. My customers really do not even want to shop at night. I am open Thursdays and Fridays to eight at night. We used to be open to nine but we find it sort of quiet at night.

We are servicing the public. We have to be open--in fact, this whole thing started many years ago when I was renovating my store. I will try to be brief on this. I opened up on Thanksgiving Day only because of renovations in 1978. I thought, "I am going to be there anyway," so I brought in a few staff. I stuck some mannequins with fur coats in the side lane with a sign pointing in and we got tourists from Switzerland and from San Francisco. There were a lot of happy people.

I thought, "If people want to shop, why should I not sell to them?" We started first with the holidays and it evolved to Sundays. At that time, I decided to open on Boxing Day and everybody knows what happened.

At this point, so many tourists come to Toronto. They want to see Chinatown, especially lately with so many new stores there. It is a tourist area. I think the problem with the city of Toronto at the time was that there probably were hardly any furriers, retailers, on Spadina, and somehow or other they considered only certain merchants.

Mr. Philip: The argument has been made that the big conventions start on Mondays. People come in either Saturday night or Sunday morning.

Mr. Magder: Correct.

Mr. Philip: They may shop for clothes during the conventions, but if they are planning a major purchase such as fur, which seems to be a major tourist purchase for convention goers, and the convention crowd is the people who have the money to buy the furs, they are likely to buy on Sunday. If they do not buy them on Sunday, chances are they will not get them by Wednesday when they ship out back stateside or wherever they are going. Is that a valid argument?

Mr. Magder: It is a good argument because actually most people, especially the husbands--I get women who come in during the week and say: "I



like that coat but I have to get my husband in. He is so busy at the convention," and this, that and the other. "It is really not too convenient." Of course, I would stay open at night but I guess they are tired. They are travelling, rushing here and there. You know how it is when you are travelling. Even when I go to Montreal to the fur conventions, I do not have a minute's rest sort of thing. They do not have any time to do shopping, whereas Sunday gives them a chance.

In fact, probably Saturdays, most stores, even my store on Saturday, are always very busy. We find one nice thing about Sunday is that it takes a little pressure off Saturday and it enables me to cater to my customers and give them better service and consideration on Saturday, whereas if it is all condensed into that one period--in my case, to have a business, you have to spend a lot more time with a customer. You do not sell a fur coat and have it walk out the door. There are fittings, alterations and so on and so forth.

As I mentioned before, they can come on Sunday and if they are going back during the week, it gives us a chance to do the alterations so they can take the coats back, or if they come on Saturday we may do the alterations on Sunday.

I have one lady working for me. She is a single mother. In her case, she needs the money. We pay time and a half on Sunday and she can get somebody to take care of her child much more easily on a Sunday than she can at other times. She likes working Sundays for a variety of reasons. In our case, we are only open from 11 until five. If the employee wants to come in at 12 or something such as that, that is fine with me too.

As far as people worrying about people going to church is concerned, we find it is quite nice. We have people who come as families. They go to church and then go shopping afterwards. It finishes off the day. I do not think there is any conflict there.

Mr. Shymko: I think all of us are very pleased to have you before this committee. Talking about anarchy, you have been described as an anarchist by a judge of the Supreme Court of Ontario. Is that correct?

Mr. Magder: No, by the crown attorney, not the judge.

Mr. Shymko: The irony is that the real anarchy is in this act and some of our laws. If there is a real mess in any of the acts, it is this one, as witnessed by the concerns expressed by the mayor of this great city to really clean it up, to eliminate some of the blatant contradictions. I want to focus on three of these.

The first is the obvious contradiction of those who espouse justice and are critical when people are victimized. I refer to the Ontario Federation of Labour, which apparently allows and is quite supportive of the unionized members who work on Sunday at General Motors. They are not victims; they are not being discriminated against; they are not being exploited.

Mr. Madger: That is an excellent point.

Mr. Shymko: But when a Jew or a Pentecostal wants to open his small or mid-sized retail store on Sunday, because he closes it on Saturday for religious reasons, and employs eight or nine people, they are screaming that this is exploitation, that the poor workers are being exploited and victimized. That is a fundamental contradiction, and I am very glad that you

mentioned this in, I think, your first brief of February 19; at least, that is the date I have.

You have indicated that the problem with your dilemma is not the province; it is the city.

Mr. Magder: My problem is the city, but I think Mayor Eggleton, in his wisdom--and I really admire the man, because he has to try to keep people happy--

Mr. Shymko: Do not overdo it.

Mr. Magder: No, I have chastised him so often that I have to give the devil credit when it is due.

Mr. Shymko: Apparently he did not carry enough clout to convince the council of the wisdom of that committee's report.

Mr. Magder: No. Regardless, wisdom is wisdom.

Mr. Philip: About as much clout as Larry's promise to you.

Mr. Shymko: Yes. The problem I saw here is we have the mayor coming and asking us to clean up our own act. They should clean up their own act at the municipal level before asking us.

Mr. Magder: That is interesting. I never thought of that.

Mr. Shymko: They are the ones who are causing your dilemma.

Mr. Magder: In my case, yes.

Mr. Shymko: Exactly. The act allows for a designated tourist area to sell all items. Is there some kind of lobby from the clothing industry when they put clothing as an item that is not to be sold in Chinatown?

Mr. Magder: Absolutely not.

Mr. Shymko: Where is the conspiracy there? Is there one?

Mr. Magder: I do not think there is a conspiracy. I think the mayor is trying to get off the hook as far as Paul Magder is concerned, and this is a very nice way of doing it, because if clothing is allowed to be sold, then Paul Magder is allowed to be open--

Mr. Callahan: Local option in reverse.

Mr. Magder: --and he does have to tackle the tourist areas at all. He does not have to make any changes.

Mr. Shymko: Have you tried to get a lobby of all the clothing stores in the area? Would they be willing to open on Sunday in the designated tourist area of Chinatown?

Mr. Magder: No, most of them want it closed. My position is this. Maybe most of you people were not involved when this law came out at that time, so I would like to comment, When they looked into this issue of Sunday shopping, let us say, in 1975, it was really a food store problem more than

anything. The big supermarkets did not want to work Sundays, and there were not so many little stores, so it was not a problem.

However, you probably did some research in Ontario and found that possibly 80 per cent of the merchants or people were against Sunday shopping; not that they necessarily wanted everybody else not to be open, but that they themselves would not shop on Sunday, or could not care or did not work for them. That is fine for many suburban areas. Conversely, probably 20 per cent--maybe towards the waterfront, Spadina or wherever--wanted the right to be open. In effect, they were both right.

I think it is important that the government do as was done in Massachusetts. This is what you should be looking at. In Massachusetts, they have a retail law, but the law allows everybody to be open on condition that they must get time-and-a-half wages, it must be voluntary and if people are forced to work, there is a \$10,000 fine. I am just suggesting along these lines, not necessarily exactly the way it is. Also any businessman who is forced to open by his landlord should be heavily fined or penalized. In that way, you allow the marketplace to decide; you allow the merchants to decide.

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I think Ontario could go further to make a much fairer law, just as we hope the Charter of Rights is supposed to guarantee rights to minorities. Whereas in America it is a melting pot, we are not and we are trying to be different.

I think the Ontario government's responsibility is to guarantee the pause day for anybody or everybody. Of course, if the majority of people are Christians who want to keep Sunday that day, they will do so. I do not think that is the real problem. These things will work themselves out. If you allow Sunday shopping in Canada, or in Ontario especially, we will not necessarily follow what happens in the United States. What will happen may be somewhere in between. You may have a few more stores open, such as mine and those in tourist areas, but you will not necessarily have everybody opening.

Pardon me for putting it this way, but if you allowed nudity on the streets to be legalized, you would not see everybody running down the streets naked. You may have the odd cuckoo who will do it, but--

Mr. Callahan: That would certainly put the clothiers out of business.

Mr. Magder: No, it would not. It is too cold in this country. It is the same thing. If you allow Sunday shopping, it does not mean that we have to be open on Sunday. If you are a good merchant and you have a good product, people will come to you when you are open and when you want to be open.

For instance, I was in Hong Kong, where I do not believe there are any rules or regulations. Yet there was a Seventh Day Adventist who, on Saturday, had a sign in his store saying, "I am a Seventh Day Adventist and I close Saturdays." Obviously, he could still stay in business. You want people to deal with you because you have a good product and a good service, not because you are the only place in town or the only place one can go to, just because you have a monopoly.

Mr. Shymko: I was looking at three possible options that probably would resolve your problem. The first one is to move to Harbourfront where



clothing is allowed. You pointed out that you would have a 50 per cent decrease in your sales.

Mr. Magder: It will not work.

Mr. Shymko: Okay, that option is out.

Mr. Magder: Yes.

Mr. Shymko: The second option is an amendment to the act which would apply to designated tourist areas; that is, when an area is designated as a tourist area, you cannot discriminate in terms of the items that are being sold in retail establishments. That could be one amendment. The municipalities would be bound by that. Do you support this argument?

Mr. Magder: That makes sense, yes. That is a progressive step. If you cannot change the whole thing, at least let us make some--Canada's history has been more evolutionary and America has been more revolutionary. Revolutionary makes a lot of sense, but we cannot just stand still. In fact, I would like to point out to you ladies and gentlemen here that the Chinatown exemption discriminates against the Chinese people because it says certain merchants are allowed to close Wednesday and open Sunday. It discriminates against some Chinese inasmuch as they are not allowed to open seven days a week, as they are in other tourist jurisdictions.

Mr. Shymko: Even in a designated tourist area, there is that restriction?

Mr. Magder: Yes, in Chinatown West.

Mr. Shymko: Because of the items that are being sold?

Mr. Magder: Certain items are allowed to be--

Mr. Shymko: Clothes?

Mr. Magder: No, not clothing; I think jewellery items. Certain items. Some items and, of course, cigars, cigarettes.

Mr. Shymko: And you say many of them certainly do not even apply to that.

Mr. Magder: No. The funny thing is that it discriminates against the Chinese on the one hand, and on the other, it gives the Chinese more rights than other people. Under the Retail Business Holidays Act, if you close Saturday, you may open Sunday, with regulations, of course, which I believe are also wrong, as you do. Yet certain types of Chinese merchants have an option of closing Wednesday, Saturday or Sunday. They have three choices. That, again, is discriminatory.

Mr. Shymko: You certainly have impressed me as being a very reasonable man. You are not against Sunday closure per se; you are not opposed to the fact that we should have a day of rest, namely, Sunday. Your objections are very reasonable. You want some minor amendments in the act that will accommodate your problems. You are not being an anarchist, at least, as some crown attorney has described you.

Mr. Magder: I do not think I am an anarchist. I am a taxpayer--

Mr. Shymko: I want to ask about the third option that may resolve your problem. How big is the space of your store in terms of square footage?

Mr. Magder: Our store exceeds the allowable--

Mr. Callahan: Is this space you can lease?

Mr. Shymko: No, I am not leasing anything.

Mr. Magder: No, he is discussing the issue.

Mr. Shymko: Is it over 5,000 square feet?

Mr. Magder: I do not think it is over 5,000.

Mr. Shymko: Is it less than 5,000? How many employees do you have?

Mr. Magder: When we are busy on a Sunday, we have 20 working for us.

Mr. Shymko: That is a lot. With the square footage, maybe you could qualify under the religious option.

Mr. Magder: The religious option is discriminatory. We are not supposed to have it.

Mr. Shymko: At present, it discriminates, yes.

Mr. Magder: It discriminates and it is wrong.

Mr. Shymko: If you were to close on Saturday, since most of your profits and business are on Sunday--

Mr. Magder: No, that is incorrect.

Mr. Shymko: Would you close on Saturday?

Mr. Magder: No, I will not. Personally, my position is that a government has no right to tell anybody how to spend his time or when to work.

Mr. Shymko: It can provide the choice though.

Mr. Magder: They should guarantee that you have the right not to work. That is your responsibility on Sunday, if you wish, or your pause day.

Mr. Shymko: And give you the right to close.

Mr. Magder: Yes, but if you can go to the racetrack seven days a week and to duty-free shops and so forth--I can go on and on with examples--I think it is absurd. I will go along if you want to bring back the Lord's Day Act and close absolutely everybody and everything.

In fact, I was discussing this with an honourable man from a union. It may have been the same person who made his presentation here. I said to him, "You know, this is something." Of course, he says I am out for the buck. Come

on, I am trying to make a living. I said to him, "What about the airports being open on Sunday?"

Mr. Shymko: That is my question.

Mr. Magder: He said, "That is beside the point." It is in Ontario, as far as I am concerned.

Mr. Shymko: Why do I not ask you a question on that? Maybe you are answering it already. The third contradiction you have pointed out is the duty-free shops in the airports. They are federal property.

Mr. Magder: Yes.

Mr. Shymko: Maybe the reason they are exempted is that they are federal property and not bound by provincial statutes, but I understand that they are bound by provincial statutes.

Mr. Callahan: No, they are not.

Mr. Shymko: The Liquor Licence Act applies to them in terms of liquor being served. They are bound by our environmental acts. They must comply with our Employment Standards Act in terms of what people are being paid, so they do abide, if one were to research. I just wonder whether you have made a case of that particular contradiction with regard to airports.

Mr. Magder: I have not personally, but I must tell you that years ago Les Kingdon--although he is against me, we are almost friends--said the airports could have been closed under the Lord's Day Act. I pointed it out to the honourable union man who was debating this issue at the University of Toronto. I asked why the airports are open on Sunday. He is all for protecting people from being forced to work and this, that and the other. Fine, let us go along with his argument.

He says, "When I take a holiday, I like to leave on a Sunday." I say to myself: "This is ridiculous. Thousands, not hundreds, of people have to work, are forced to work, must work so that he can take his holiday on Sunday." The airport employs literally thousands of people, pilots, ground attendants, mechanics, storage people. You can go on and on. I thought, "How absurd."

I disagree with the Lord's Day Act--it is based on one religion, which is wrong--but at least if everybody and everything was closed, I would go along with that. I would say at least that is fair. The trouble with the Retail Business Holidays Act is that it is an unfair law. There are many things wrong with it, but it unfair. It seems to be that if the mayor likes you and you are down at Harbourfront, he makes it a tourist area. I could go on and on.

Mr. Callahan: When you appeared before the Toronto city council to try to produce evidence that you should be designated a tourist area, did you have these statistics about all these furs you were selling to people from outside Canada?

Mr. Magder: They have the material.

Mr. Callahan: Did you present that material when you first applied to Toronto city council?



Mr. Magder: I explained it to them. I do not know whether the statistics were exactly the same at that point.

Mr. Callahan: The point I am trying to get at is that you have become probably one of the most celebrated furriers in the world as a result of this.

Mr. Magder: I must comment on this. I am not doing this for the publicity, although I need the publicity to help me pay the lawyers. It is the province that made it an issue, because I won in court.

Mr. Callahan: I am not suggesting that at all.

Mr. Magder: Okay. I would like that clarified for people.

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Mr. Callahan: What I would like to find out is whether your massive increase in sales to tourists happened after you got all this publicity or before you got all this publicity.

Mr. Magder: It has been happening all along. I admit that some of the publicity has helped. But then again, conversely, there are some people who feel I am a lawbreaker and will not deal with me. It is a two-edged sword.

I think that is immaterial. If people want to buy fur coats, and I am hiring people, creating jobs and collecting taxes, who is getting hurt? People are happy to work and make a few dollars. What is the harm of it all?

Mr. Callahan: I have one final item. I know time is running out, but I do not understand the logic of this. Why is it that people would prefer to go up--you are on Spadina Avenue, are you not?

Mr. Magder: Yes.

Mr. Callahan: Why would they prefer to go up there from a convention centre and from the hotels and so on, rather than stroll along Harbourfront and buy a fur coat from you at Harbourfront? I do not understand the logic of that.

Mr. Magder: I will give you a good answer. I do not know whether you people are aware of Harbourfront. Have you been down there?

Mr. Callahan: Yes.

Mr. Magder: The best stores are very pricey, very expensive and very costly. Harbourfront really caters to the more affluent of Toronto, in effect. Statistics even bear it out, because only 25 per cent of its business is tourist business. If there were such bargains and everything was so great down there, you would think its tourist business would be far greater than that. I know in my case, if I moved to Harbourfront, my costs would probably rise considerably. My overhead would be far greater.

Mr. Callahan: What you are saying is that you would have to charge more for your furs and that is the reason.

Mr. Magder: Yes.

Mr. Callahan: Finally, you have indicated you have gone back to the council with all these statistics you have about how many fur coats you sell to people outside of Canada. When did you go back to them with that?

Mr. Magder: I have been many times. The trouble is that every level of government seems to--let us say, right now, I am sure they are waiting to see what happens with this committee here. I assume they are going to say, "Let us hear what the province is going to do," because as I think you mentioned, in a way, the city is trying to pass the problem back to you again. The Supreme Court of Canada, in effect, threw the ball back to the provinces. It did not really solve the problem. Unfortunately, this is how our system seems to work.

I know I will continue to stay open. I have no choice. The interesting thing is I talk to the police on a personal basis--

Mr. Chairman: Mr. Magder, if you could wrap up, we have other questions.

Mr. Magder: Okay. I thought it was rather interesting that it seems 99 per cent of the police as individuals are behind me. I thought: "This is strange. The police are actually more behind me than the public, because 90 per cent of the public are behind me and 99 per cent of the police." Then I realized the police feel how unfair and unjust it is because they can see more of what is going on.

In fact, the police seemed to change their opinion about the whole thing when Harbourfront was designated a tourist area. Here I am in a tourist area and I am not allowed to open. I have been told by many officers they would rather not be charging me, but, of course, they have to charge me.

Ms. E. J. Smith: Very briefly, I have two things that seem to rattle around in my head here as not being followed. You say you could not move to Harbourfront because you would lose 50 per cent of your business.

Mr. Magder: For two reasons: the overheads would be horrendous, the cost of moving and relocating, and I need a large store, which would probably make it financially costly.

Ms. E. J. Smith: You have talked a lot about fairness. In fact, the reason you have got such a huge business out of your position is because everybody else is obeying the law and you are the only one open. If every furrier was allowed to be open, you would lose more than 50 per cent of your business. You would find yourself competing.

Mr. Magder: I will be happy to close on Sunday if I cannot do business. As one American pointed out to me, "If you can compete on Saturday and other days of the week, why can you not--"

Ms. E. J. Smith: Okay, stay with my point. Your problem, basically--you would be in a completely different position if the law were changed in such a way that all furriers, one way or another, were free to--

Mr. Magder: Excuse me. Let me make one point: All furriers were allowed to open on Sunday, legally, in Ontario, thanks to me, because when it was ruled that furs were handcrafted, we were allowed to sell furs, but very few merchants wanted to take advantage of that. There are a lot of people who

o not want to work on Sunday, and I grant them that. If they do not want to work on Sunday, they need not work Sundays.

Ms. E. J. Smith: Yes, I understand your position on that. I know what your position is on that.

The other thing, of course, is this problem that you feel discriminated against because you are in a tourist area, it is just that you do not fit the mould of that tourist area. I make this mental picture, that if we followed your thinking on that particular thing, we would have a Chinatown that was full of furriers selling fur and no Chinatown left. I gather from Mr. Eggleton that they had to make a distinction. The distinction was that it was the characteristic Chinatown-type store. If, in fact, you said, "Now we have declared that a tourist area and every store in that area can now be considered available to open on Sunday," you would soon destroy the very thing that made it distinctive, which was that it was Chinese, because that land would become extremely valuable to retailers.

Mr. Magder: I do not know if you are aware of the large amounts of Hong Kong money coming into the country. I think the reality will be that half or two thirds of the furriers will be forced to move out because of the high overheads and high expenses. I honestly believe that. Only the ones who are the top men and top furriers will stay; the market will determine who can stay. I understand their rents are, at this point, as high as on Yonge Street and I am sure there is not the business there that there theoretically could be on Yonge Street right now. These are things beyond our control. There is nothing we can do about it.

Ms. E. J. Smith: I guess I see your position as wanting to be unique in your business and that is not fair and it obviously is very profitable.

Mr. Magder: The thing is, I feel I could sell fur coats in many other tourist jurisdictions in Ontario the way it is now, such as Windsor, Ottawa, Carleton and so on and so forth, but I am not allowed to sell them in my store on Sunday in a tourist area. That is wrong.

Ms. E. J. Smith: Yes, I understand how you feel.

Mr. Magder: Even Les Kingdon thinks it is wrong. Of course, he probably wants to do away with all tourist areas. It is as simple as that. Judge Harris said to make a tourist area that prohibits me from being open is discriminatory.

Ms. E. J. Smith: As I say, I have trouble with the other possibility of what would happen then.

The other comment you made that I was really interested in, because it raises questions, is completely unrelated to this--but picking your mind on some research you have apparently done--is when you said one of the states in the United States had a very prohibitive law that said no landlord could require a merchant to open. I have raised this about our malls, because they can in fact require them to open.

Mr. Magder: Yes, it is terrible.

Ms. E. J. Smith: I have some problem with that. I do not know, once you have rented a place, why you cannot close it if you want to.



Mr. Magder: Apparently, the Dufferin Mall--I am not sure if it's a K-Mart, anyway the large supermarket-type stores, say to the landlord, "We will move in on the condition that everybody has to stay open until 10 every night." This is what they did and this is what happens. I think this is wrong. Maybe it is legal, maybe it is allowed, but it is wrong. It is immoral and it is wrong.

Ms. E. J. Smith: Forgetting whether you and I think it is right or wrong, I was just trying to find out from you while you were here that this state actually has a law and a fine that has stood up in the American courts that says they cannot force a store to open.

Mr. Magder: I think you will find out this week during my court case, a lot of new information will come out. I believe this information will come out this following week in the provincial court. You may want to attend if you have the chance.

Mr. Mitchell: One very quick question. At the corner of Dundas and Bathurst Streets they are building a very large--it appears to be an Eaton Centre for Chinatown, that type of building.

Mr. Magder: Dundas, not--

Mr. Mitchell: Dundas and Spadina.

Mr. Magder: Yes. It is built already.

Mr. Mitchell: What is going to happen? What are going to be the controls in that place? Can you tell me? Are you aware? Does it still fit in the umbrella of Chinatown West?

Mr. Magder: Whether it fits in or not, I know one thing--I do not think the police will be charging anybody in there if they are breaking the law. If you go to Hong Kong, the Chinese seem to be happy to work 24 hours a day all the time and have their stores open forever and ever. That is the way they are. They seem to like it that way and that is their business.

Ms. E. J. Smith: Ontarians do not seem to like it that way.

Mr. Magder: Well, I think if they do not like it, they just should not shop on Sunday and they should not pay somebody--

Mr. Chairman: Thank you, Mr. Magder, very much, for your time and your presentation here this morning.

Mr. Magder: Sorry I was so lengthy, but whatever.

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Mr. Chairman: While the next presenter, Mr. Salvatore, is coming forward, perhaps--a number of you sort of raised eyebrows and wondered why we had gone so long with the last witness. There is a very simple answer to it and it lies with all of you, if I might point it out. It has caused a problem for us. We are about an hour behind now.

We have one more presentation--would you come forward, sir?--following which we did wish to discuss four or five administrative matters, including one that may take some time, and that is whether our mandate includes our

considering Greenwood Race Track or not. Our choices are either to continue on this morning into the lunch hour or, alternatively, to adjourn at about 12:30 and come back at two. Do I have any feeling for your choices in that regard, if we could just take perhaps two minutes now to discuss that?

Mr. Shymko: Could we just listen to the next witness and then discuss that? Please, let us listen to the witness.

Mr. Chairman: I want to get a feeling because the staff would like to know whether we are coming back at two or--

Mr. Mitchell: To come back at 2 is satisfactory to me.

Mr. Chairman: Is everyone agreed then?

Mr. Shymko: Yes, just let us listen.

Mr. Chairman: Hang on, Mr. Shymko. We would like to settle that now, rather than at 12:30, because of room and staff considerations.

Mr. Shymko: I would suggest we listen to the last witness and make a decision whether to come back at two o'clock following this. I will refrain from any questioning. We have already heard two other people from the same organization, so I am sure many members will not have too many extensive questions as one may contemplate.

Mr. Chairman: Any other comments, or do we wish to go ahead now?

All right, we will then proceed with the next witness, who is Arthur Salvatore. Welcome. Thank you for being so patient and for waiting until now for your presentation. I understand you are representing the Beaches Business Association Inc.?

#### BEACHES BUSINESS ASSOCIATION INC.

Mr. Salvatore: That is right. I have a question. Mr. Shymko was mentioning that someone else was already here. Was he referring to someone from the Beaches?

Mr. Mitchell: Yesterday, a lady by the name of Marshall was here, representing herself, not the Beaches area. She made that quite clear.

Mr. Salvatore: I usually represent the Beaches Business Association and all the businesses on this issue. The main reason is that while the vast majority of businesses there want to open on Sunday, they just want to open, period. It is not like they have studied the law, the history of the law, how this law has affected people in different jurisdictions, like I have. So I always represent them on this.

In fact, the main reason I am here is to field questions more than to present a brief. My brief is actually very simple. This is what we typed up. I have already handed it out to you. It could not be simpler than this.

The argument I am making, and the request and the favour that I would like to ask today, is so simple and straightforward--I actually asked it a year ago, when I made a presentation before the Progressive Conservative task force. At that time, they promised they would honour my request, but, unfortunately, they did not. I read this report three or four times, desperate to find what I asked for in there.

By the way, Mr. O'Connor, I know you wrote the report or something, but you were not there that day; at least, I do not recognize you. It was the second time the committee was in Toronto.

Interjections.

Mr. Salvatore: It was the second time.

Anyway, I made a simple request.

Today, the only thing I would like to do before fielding any type of question is just go over a few points. None of them has any relationship to any other point; it is just that these are some of the pitfalls I have seen before when trying to come to some sort of decision regarding this or other issues.

I have not been here when other respondents have come in and given information, but if I were you, meaning all the people here, I would be very wary of any type of polls that were given, especially if they were done unscientifically. Any time you hear something like "Ninety-eight per cent of the people agreed with this or that," you have to be sceptical. I do not think 98 per cent of the people anywhere in the world agree on anything, and not on this issue. In fact, if 98 per cent of the people believed in something, we would not be here today, unless this were strictly an academic exercise. By the way, there are referendums on this issue in British Columbia, which is something I will bring up later.

The second point I am trying to make today is that if I were you, I would be very suspicious of all briefs you receive here, because virtually every brief you are going to receive is by some group or individual who has something at stake, whether they want stores to be open to hold their market share or they do not want them to be open for whatever particular reason, such as to protect members of their religious group or members of their union.

The only time you are ever going to have something that is unbiased is from someone who has nothing at stake at that time. From what I understand, outside of the lady who was here today from Fenelon Falls, who was already open and is immune from virtually anything you can do to her jurisdiction, virtually anyone else, whether pro or con, is going to have some sort of bias in this, although I assume you already know that or you would not have reached this stage.

Mr. Philip: If they did not they would not appear.

Mr. Salvatore: Yes. That is right, but their interests are biased. That is all I am trying to say. I am not saying that there cannot be facts there that are not relevant, but they are biased one way or the other.

In fact, my great fear--and this is the main criticism I had of this report that came out, which I assume most of you have read or have seen--is that essentially all it became, from what I read here--and I have read this thing three or four times--is a referendum on special interest groups.

In other words, 42 came in and said, "Let us keep the law the way it is and make very few changes." There were 10 who came in and said, "Let us liberalize the law." You say: "There are 42 on this side and 10 on that. What are the arguments of the 42?" That is essentially what this brief is about.



There is very little factual evidence in this, and I am afraid it is going to happen again. That is the main reason I am down here today. It is very easy to say, "You know, let us face it; 80 per cent of the people who came in are for the law, so let us keep the law the way it is." It does not matter whether there are relevant facts or information on the side of the other 10 per cent. It is a question of pure numbers.

Mr. Chairman: That is democracy for you.

Mr. Salvatore: Yes. That is right.

Anyway, the main goal for all the people here--because you are going to have to defend yourselves eventually, no matter how you come down on this--is to make your course of action and recommendations defensible. To me, the only way to make them defensible is to make your decision on facts, rather than by saying that so many groups said this or that. The goal is to make this a nonissue, in effect, just like beer in the ball park is now a nonissue. It was an issue five or six years ago, but I do not think many people talk about it any more. It happened and I guess there are a few problems, but not enough to make it an issue again. That is essentially my argument with this.

If I can, I would like to read this letter. It is very short and I am afraid that it could be overlooked among some of these briefs that are 100 pages long or whatever. It is essentially what I just said before. I will make it very quick because I really want to answer questions on this, if possible, and I know the time is getting short.

It says: "One year ago we were pleased to make an oral presentation before the Progressive Conservative task force on extended shopping hours. We discussed the factual credibility of the traditional arguments of both the opponents and proponents of Sunday shopping. Our conclusion, based on historical precedent and the experience of other jurisdictions, was that both sides were guilty of ignoring facts and making hasty, irrational and self-serving judgements.

"Our own recommendation was to allow Sunday shopping on the condition that further protection of employees might be necessary under the Employment Standards Act. This recommendation was based on the successful reconciliation and disposition of this issue in other jurisdictions, such as British Columbia and Alberta, as well as the states of New York and Massachusetts." I might well add another 37 of the 50 states in the United States.

"We strongly suggested that the task force officially communicate with the above jurisdictions to confirm the facts of our brief and to ensure that no problems or regrets have developed.

"The chairman promised to follow our suggestion and report their findings within the report. To our serious dismay, no such findings are mentioned in the report. We consider the deliberate ignoring of such relevant and impartial information in favour of biased speculation to fatally flaw that report.

"We now plead with the new committee to communicate with those jurisdictions mentioned above that have successfully tackled the problem with essentially the same solution.

"First, broaden the labour laws to protect those who do not want to work on Sunday and, at the same time, allow stores to open on Sunday to protect

those who do want to work and shop. Any other solution will hurt one of the above groups and begs the question of what is so different and unique about Ontario that it cannot have problem-free Sunday shopping like British Columbia and virtually the rest of North America?

"Any decision you will make will not be unanimously popular, but at least this solution helps both sides and has successful precedent in its favour."

What it essentially says is that I do not really think that this is a black-and-white issue and that either everything has to close or everything has to open. To me, it is not inconsistent to protect people from working seven days a week--but you already have laws that do that--and from not having to work on Sunday--because that day, more than any other, at least in our society--is conducive to families, anyway, because more people have Sunday off than any other day, and still allow stores to open on Sunday. I think we can do both at the same time. Once you have broadened that Employment Standards Act--maybe it has already been done, David Scott was talking about it at the time the Supreme Court ruling came through, he mentioned that we should immediately, because of this precedent with Simpsons-Sears, broaden the law to stop any employer, no matter whether small or large, from forcing anyone to work on Sunday.

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I figured, once you did that, you do not need the Sunday laws anyway. They would negate the whole purpose, assuming that the law is labour oriented to begin with. If it is, once you protect people from being forced to work on Sunday, you do not need the stores to be closed anymore, because, as it is right now, Simpsons or any other store can have 1,000 people come in on Sunday if they want to do inventory or change the prices or get ready for a big sale on Monday; there is nothing you can do about it the way the law was configured originally. The way I am suggesting, people would be protected from that, but at the same time people who do want to work and people who do want to shop, the other side of the coin, they could be protected too. That is my whole argument.

What I am saying is that I think if you really want to get some good information here--I do not know what your budget is, but I would fly the mayor of Boston, of Vancouver and some other cities, or the Minister of Labour of British Columbia or the Department of Labour of Boston, Massachusetts, and bring them up here and say, "What is happening?"

Mr. Chairman: Or we could all go there.

Mr. Salvatore: You could go there. Those people would have more relevant information than anything from anyone who has come before you, at any time, because they have experienced it.

That is it. Now I am ready for any questions.

Ms. Bryden: I would like to welcome Mr. Salvatore from the Beaches Business Association; we have met before. I am very pleased that you did come down to give us your views, and I do find your brief one of the more thoughtful ones that has been presented to us, because you have raised philosophical issues behind these hearings, such as whether we are conducting a poll, scientific or nonscientific, or whether we have information about how the people in any given area or any given group really do feel about Sunday

openings and closings. As you suggest, we probably do not really know what the consensus is in different areas and among different groups. The only way to find it out would probably be very intensive scientific polling, which the committee has not been able to undertake, and nobody else has done it very efficiently.

Also, you point out that any legislation must protect employees; I think that is a very important point to make. Mr. Ian Scott did introduce some legislation to protect them and even to allow court orders for people who deliberately defied the law, but it has not yet been passed, so we have to consider that kind of legislation as among our recommendations. You appear to be strongly in favour of it.

There is one concern I have as far as protecting employees. You are right that Eaton's or Simpsons could probably hire hundreds of part-timers. They would still have to hire supervisors and administrators who would be full-time employees, and smaller stores may not be able to use just part-timers on Sunday, so there may be a certain amount of pressure on people when they take a job in a smaller store to work so many Sundays. If they all decided they did not want to work on Sundays, whether it would be workable or not, whether there would be--not necessarily coercion but certainly pressure when they are hired, or an understanding that they would have to work on Sundays.

I still think the big dilemma facing the committee is to know whether Sunday opening is a challenge to our family life as we call it, or our pause day in the week, which so many people feel is very important to have: one weekend day when they can be with their families, their friends, their children out of school and do other things besides shopping. There is nothing to prevent them doing the other things besides shopping right now, but the ability to be together with other family members, it seems to me, is very important, if we are trying to promote the family and family relationships or people relationships, the opportunity to meet with your friends and enjoy a day of respite from your business activities. I think that is a dilemma we are going to have trouble meeting.

I appreciate the fact that you say the issue is not black and white, nor would any legislation we adopt be unanimously popular. The past bill, we all know, was very much a compromise. It may be that what this committee will be working towards is a better compromise that may consider the competing interests in a fair way. Our difficulty is just exactly what the compromise should be.

Have you any feeling as to how important you think the legislation will be in its disruption of family life, or will it be able to not be accused of making it difficult for families to be together on Sundays?

Mr. Salvatore: Based on the research I have done on it, which is essentially personal, in the states and the provinces that have had Sunday shopping, there has been a very minimal impact on family life. I came from New York actually. Some of you may be able to pick up my accent, even though I have been here almost 20 years. There has been Sunday shopping there for almost 20 years, originally unofficially. In other words, people were breaking the law and no one was bothering to do any charging.

Eventually, it was decided to change the law because it was hypocrisy to keep it on the books. In that state, in the town where my parents are, and also in New York City, where I go regularly, most stores are still closed on



Sunday. From what I understand, New York City is the biggest tourist city in the world, but most stores--I am not talking about restaurants or stores like that--are still closed on Sunday because, despite the number of people there, unless you are on Fifth Avenue or Broadway, there is still not enough traffic to open.

Where my parents live, in a suburb of New York City, most stores are also closed on Sunday. The main exceptions are what we call variety stores, although they are a little different there, and supermarkets. The supermarkets are fully open, but with a very reduced staff. I go in and out of them all the time. In fact, when I am there, I cannot help it. I have been involved with this issue for 12 years now, and I go into any store on Sunday, anywhere it is legally open, and I always ask if there is any problem. I cannot help myself.

In the supermarket I used to go to consistently, it was mainly teen-aged, high school girls and boys, working with one or two older people who must work during the week. From what I was told, those people shift. In other words, either the assistant manager or the manager who works on Sunday shift, but there would be a steady stream of high school students who would actually ring in the sales and things like that.

When I bring up the whole issue there, they look at me as if I am from Mars. It is the same as making cars that are painted red illegal, or something like that. There is no disruption from what I see, mainly because there are not that many stores open, and the people who are working are the type of people you remember when you were a teenager. At that age, they are not exactly family oriented.

I have also followed this in other places, such as British Columbia. The only thing I can say is that I am a real political and news junkie. I watch Cable News Network all the time; I watch The Journal and The National and whatever. I have never known any jurisdiction that decided to change the law to allow stores to be open on Sunday, whether they liberalized it to a great degree or to a small degree, ever to say a year, five years or 10 years later, "Boy, did we ever create problems here."

I do not want to offend anyone here--politicians generally do not admit mistakes anyway--but I am just saying I have never heard the media discuss problems with jurisdictions where there is Sunday shopping. In other words, the two media capitals of our hemisphere are the east coast and the west coast of the United States, and the people there will blow up any story, as you are probably aware. I have never heard a story yet, and New York and California are both able to be open on Sunday, where there are problems because of Sunday shopping.

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The latest state in the United States to go to Sunday shopping, by the way, is Texas. They did that around two years ago, and that is a very conservative state. There have been no regrets. There have been no problems, and it is not an issue any more.

Ms. Bryden: You say they are not all open. They do not take advantage, but in a place like the Beaches area--

Mr. Salvatore: That would almost be all open.

Ms. Bryden:--there would be great pressure on any store to stay open

if Sunday shopping was available. There are people who probably do not want to open but who would be forced to because of the competition, so they do not have a choice.

Mr. Salvatore: They do and they do not at the same time. It is a question whether they are prepared to give up some revenue. The Beaches is a special case because the Beaches is in reality a tourist area, but it is not legally a tourist area. You know. You just have to go down there on any one Sunday when there are a lot of people.

By the way, I am certainly not here at all to make any type of recommendation regarding the Beaches. This is strictly a provincial matter as far as we are concerned. We happen to be part of the province and we have never asked for anything special for our area at any time. Even when we made a brief before city council of Toronto, we made it on behalf of the whole city, not on our area on its own. That is our position on that.

But there is a situation where most of the stores would be open, because there is so much traffic there you would have to be crazy not to open. I mean there is more traffic on Sunday than there is on the other five days of the week combined. It is just too tempting for a retailer not to open when he sees 1,000 people going by, especially when there might not be 1,000 people going by during the whole week. We are human beings. I know some people who say that for the right to open to Saturday and Sunday in the Beaches, they would close the other five days.

Ms. Bryden: I appreciate your coming to the committee to give your point of view for the city as a whole. I think it is very valuable.

Mr. Salvatore: For the province as a whole.

Ms. E. J. Smith: I have just one question. We seem to have had other merchants say to us that, whether directly or indirectly, there would be pressure on people to work, even if the law said you cannot make them. There are subtle ways of bad-listing your hours or not promoting you or something, so that, in effect, such a law is not enforceable in a meaningful way.

Mr. Salvatore: You mean if it was just the labour law?

Ms. E. J. Smith: Yes, if the law says you cannot force someone to work on Sunday. The merchants we have talked to would tend to say such a law is to some extent meaningless except for a person who is not dependent on the job and is willing to risk going to court and so on. If he is working his way up, hoping for promotion and so on, having the law on the books would really mean nothing.

Mr. Salvatore: It would have as little meaning as it would with all the other businesses. For instance, right now, the only way you can protect anyone who is working for a car plant or a restaurant--actually you have to remember that the only type of business that is regulated for Sunday at this point is retailing. It appears that since every other type of business is allowed to be open or is allowed to have people earn money on Sunday and there are not any complaints, somehow they resolved it among themselves.

For instance, I used to own a store that was open on Sunday; I do not any more. I hate to say it, but I was open illegally on Sunday at the time. I thought it was legal, but it ended up being illegal. That is beside the point. Anyway, I have had experience with people working on Sunday. I have had very

little problem with people not wanting to work on Sunday. You are right in the sense that it is hard to enforce something like that, but the main reason I do not consider it a problem is that there are very few people for whom it will be a problem.

If you are going to join the retail industry, I think you have to make up your mind eventually that the main sacrifice you make--every type of profession has a sacrifice; there are positive points to any job and there are negative points--the one really bad thing about working in the retail business is the hours. You have to work hours when no one else is working. If they are working and you are working, there is not going to be any business because they cannot work and shop at the same time. If you are going to work in retail, you have to expect you are going to work hours that are not exactly normal, at least compared to office hours.

Let me put it this way. In the jurisdictions that have had these laws, there has not been that problem you are mentioning. Obviously, there are going to be some. There are winners and losers in virtually any type of legislation, and it is going to happen here too. Some businesses are going to get hurt if you allow some Sunday openings, because you have helped the others by giving them a monopoly.

For instance, variety stores are having a field day because their main competition, supermarkets, have been closed. Obviously, if there were Sunday openings and the supermarkets were allowed to be open, you would be a fool to go to a local variety store when you could get the thing for 30 per cent lower--

Ms. E. J. Smith: We have had lots of representation from the variety stores.

Mr. Salvatore: Yes, you have given them an artificial monopoly.

Ms. E. J. Smith: Protection.

Mr. Salvatore: Protection. Now they are going to do everything to protect that regulation that has helped them.

Ms. E. J. Smith: I agree that, inevitably, different groups present their own point of view and you see it as such. I do not think they even try to disguise that fact.

Mr. Salvatore: Yes, that is right. I cannot answer your question 100 per cent, because the only thing I know is what I have seen in other jurisdictions, in my own stores and in other stores in my area.

Generally speaking, I had no problem finding people to work on Sunday. That is mainly because, at least in the retail business I am in, most of the young people in their late teens or early 20s who work in the retail trade are females and most do not mind working on Sunday. As long as they have one or two days during the week that they can choose to be off, they do not mind. The odd Sunday that they had something they really wanted to do, such as be with the family or something important, we never forced them, so there was no problem. In other words, there are always enough people in the labour pool to satisfy that.

Ms. E. J. Smith: In the major market area, I think there are a lot of women. You say they are in their late teens or early 20s.



Mr. Salvatore: In the retail trade I think there are a lot of them, yes.

Ms. E. J. Smith: But I think you would find a lot of older women too, mothers, mother-led families and that sort of thing, for whom, as you have already indicated, the pressure to be able to take off the day the kids have off might be great. I see this as an unprotected group, this particular group of women who may very much need that day with their families.

Mr. Salvatore: Whoever writes the law is going to have to write it in a way--and this is my main recommendation here. It might be difficult to try to figure out how to write a labour law such as that. This is where you have to go to British Columbia or New York--actually, Massachussetts did a lot of labour legislation--to find out what these jurisdictions have done and whether they have had any problems. That is what I am recommending. I still have almost an open mind on it.

If someone says: "Mr. Salvatore, we checked all you did, and do you know something? All those groups have big regrets. They all said, privately, that it was the biggest mistake they ever made. There are problems all over the state," I will come here next time you have a meeting and I will be on the other side, but I do not think that is going to happen.

Ms. E. J. Smith: You have the same problem there, though, that you have already pointed out. The people you do not hear from are the people working on Sunday who need the job and will not make the fuss and will not come to the committee.

Mr. Salvatore: Generally speaking, I have never had that problem. This is an awful example. I am not trying to ridicule people for religious reasons or whatever. My store was open even longer than Paul Magder's, believe it or not. I was the first person open on Sunday consistently, though I am not exactly bragging about it.

In any event, in all those years, of all the people who worked on Sunday, and a lot of times I worked myself, I had only one girl who absolutely refused to work on Sunday. She told me the day I hired her: "I don't want to work on Sunday. I am religious." She did not seem very religious but I said, "Okay, I can buy that." She lasted a few months and, a month later, I met her parents and I found out that her primary reason for not working on Sunday was that she liked to go to the beach and stuff like that. Actually, as far as I am concerned, that is as as relevant as religious reasons.

If you really want to get that day off, for whatever reason, I think you should have the day off, but you can also argue further about working evenings. The same women to whom you referred who have children and a family to look after have the same problem working from 6 p.m. to 9 p.m. If they have to work, let us say, a 1 p.m. to 9 p.m. shift, they have the same problem.

To me, if you are going to work five days a week, Monday to Friday, on a 6 p.m. to 9 p.m. shift, not seeing the kids five days in a row is far harder on a family than not seeing them on Sunday. It has been a while since I lived with my parents but I think, for me as a child, it would have been far more devastating not to see my mother even one night of the week than not to see her for one day. At least you still have Saturday. Maybe one solution to this is to make sure that at least one of the two days of the weekend is taken off. Do you know what I mean?

Mr. Callahan: Very briefly, I would like to challenge your statement about New York. I was born and raised in New York City and came to Canada because there was absolutely a total erosion of family life in New York--and, I am sure, in Los Angeles--because of the total openness of commercial activities on any day of the week.

Mr. Salvatore: Are you from New York City or New York state?

Mr. Callahan: New York City.

Mr. Salvatore: I come from Westchester county.

Mr. Callahan: I suggest to you that my observations do not sit with yours. I think that in fact had a dramatic impact on family life in New York City because what happened was commercialism became the order of the day, seven days a week, and families ceased to carry on family relationships. One of the reasons I came to Canada was because it did have family life. Commercialism was not the top line or the bottom line or whatever you want to call it. Family was more important.

Mr. Salvatore: When it comes to New York City, I lived right outside New York City in Eastchester, in Westchester county. Are you familiar with that? Right between Scarsdale and Yonkers. I am not sure where you lived. There were always stores opening on Sunday, even from the time I was a child. I think you are a few years older than me. I am not sure when you came up. The laws changed, if I remember, in the early 1970s, but prior to that, stores were opening illegally and not being charged.

All I know is that down there it is not an issue. New York is a much more commercial place than Toronto is. There is no way Toronto will ever become that--I do not care how much you liberalize the laws--because this is a slightly different culture from New York, and you have to remember something, New York is a different culture than a lot of the United States. Just think of the most commercial aspects of the US, the most capitalistic, then concentrate them and that is New York City.

It is not indicative of the rest of the United States, although 38 or 39 states of the states are already open. As far as New York City is concerned, it is on its own. I have been there on Sunday many times. I go there every few months. Have you been there on Sunday within the last five or 10 years? If you go there on Sunday, there is no question that there is a different ambience than on any other day of the week. On Saturday, it is down.

Most people here must have been in New York City. If you have been there on any weekday, it is the most hectic place I have ever been in my life. On Saturday, it is around 60 per cent or 70 per cent of that because most of the people who work in all the office towers are gone, but the people who live down there are shopping and there are a lot of visitors coming in.

On Sunday--I was there and did a survey once. Obviously, it is not scientific. I just walked down Fifth Avenue, Broadway and Madison Avenue--not Madison, because that is mainly other things--mainly Fifth Avenue, Broadway and 42nd Street. I would say probably around 30 per cent of the stores were open. The rest were not open. We are talking about the major streets, Fifth Avenue. I am not talking about First Avenue or Eighth Avenue where people do not traffic.

There is no question there is less activity there. You go there at 11

o'clock in the morning, and I was there that early, the streets are virtually deserted. When you can hear a ghetto blaster 10 blocks away, you know that is not New York City norm. It is like one of those films you see where the A-bomb hit and the streets are all empty, like Fail Safe or one of those things. That is what it is like on Sunday.

On Sunday, I would say it is around as busy as it is here--

Mr. Shymko: In the Bloor West Village.

Mr. Salvatore: During a real quiet day in Toronto. I would say it is much quieter on Sunday in New York than it is here on a normal day like today, if you went down there. There is no question there is a major difference between Sunday and the rest of the days of the week. There is also no question that the vast majority of stores are closed on Sunday in New York City. Anyone can go down there and just go up and down the street. I am not just talking one Sunday. By the way, this was also in the summer. I am not talking January; I am talking the summer. I walked up and down the streets and the majority of the stores are closed. The ones that are open are record stores, book stores, Gucci's, places that people just have to visit if they go in there.

Mr. Chairman: Thank you very much, Mr. Salvatore. You were very vociferous on the issue. Thank you for being here.

We have five items of an administrative nature to discuss. Can I get some feeling of the wish of the committee as to whether to do it now, attempt to do it before lunch, or do you wish to adjourn now and come back at two o'clock?

Mr. Shymko: We may resolve it now in the next few minutes. There is no point in coming back at two o'clock

Mr. Chairman: Is everyone agreed to go ahead? Agreed.

An agenda for these five items has been circulated to you and we will go through the three or four brief administrative-like matters first. First on the agenda is a budget and you have been circulated a draft budget by the clerk. It does not indicate so, but this is for the time from April 1, the new government fiscal year, to the conclusion of the writing of our report.

Mr. Philip moves the budget.

Motion agreed to.

Mr. Chairman: The second item is sitting days required to write the report. They will be after the House resumes sitting and therefore the budget does not necessarily include any amount for members' salaries during that period of time. Any thoughts on how long it might take us? In discussing it with the clerk, we estimated six to eight days.

Mr. Hennessy: Six to eight days. I so move it.

Mr. Chairman: We do not need to know the specific numbers in the light of the motion that is next on the agenda, which I will ask someone to move so that it can be passed to present to the House leaders to provide us with approval.

Mr. Shymko: I move that the chairman request of the House leader



authorization for the select committee on retail store hours to sit the necessary number of days, approximately six to eight days, for the purpose of writing its report.

Mr. Chairman: I had deliberately left it vague as to the number in case--

Mr. Shymko: I will delete the "six to eight"; just "necessary number of days."

Mr. Chairman: Secunder for that motion?

Clerk of the Committee: No seconder required.

Mr. Chairman: No seconder required.

Motion agreed to.

Mr. Chairman: Writing the report in camera or otherwise. Any thoughts on that?

Mr. Philip: It is normal to do so, is it not?

Clerk of the Committee: Not necessarily.

Mr. Philip: I do not know why we need a motion for that.

Mr. Chairman: It is normal to write it in camera? I am not aware whether it is.

Clerk of the Committee: Because so many reports were leaked--

Mr. Chairman: What is the feeling of the committee on that?

Mr. Philip: It is the only way in which you can bring compromise and consensus.

Mr. Chairman: All right. Is everyone agreed it will be written in camera? No motion is required. Agreed.

The last item is Greenwood Race Track. This is on the agenda obviously because there were a number of presentations made to us with regard to the Greenwood Race Track situation, with which we are all familiar. The question arises as to whether the mandate provided to us by the House leaders and by the House includes that kind of issue. I have a number of speakers. Mr. Shymko is first and Ms. Bryden second.

Mr. Shymko: I read the letter from the ward 2 municipal representatives, the city Alderman Paul Christie and Metro Councillor Tom Jakobek to you, Mr. Chairman. I certainly sympathize with the problem. I think most of us share the concern that these municipal representatives have and the concerns that I am sure are shared by the member for Beaches-Woodbine (Ms. Bryden) who addressed this with a private bill last year, I believe in December.

To resolve this problem, obviously, we will have to hold some form of public hearings which I think is the intent of both the letter and the concerns and is a major issue addressed by the private bill by the member for

Beaches-Woodbine. Public hearings would include all sides, the Ontario Racing Commission and notice to people. For these hearings to be fairly conducted, one must proceed with notices and the normal procedures for hearings.

At some future date maybe we should look for some solution of a committee or some way of addressing that, but this select committee in my opinion is called the select committee on retail store hours, not on horse racing or recreational sports. The specific mandate says that the committee will review the issue of Sunday shopping and retail store hours. It then specifies that we will be addressing the amendments to the Retail Business Holidays Act and no other act. I have a problem with the purpose and the mandate of this committee and I see no reference to this issue within the mandate set by the Legislature when this committee was set up.

I also find no reference--I thought maybe somewhere in the Retail Business Holidays Act there would be some reference and that maybe we could include it. I looked at section 1. It speaks of the sale of goods or services by retail. It speaks of premises where a retail business is carried--

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Mr. Polsinelli: Sorry about that.

Mr. Shymko: Did I say something that upset anyone?

If I may continue, the section that bans and restricts retail openings on Sundays and holidays, if there are exemptions, does not apply to premises that are recreational or for amusement purposes in respect to the sale or the offering for sale of services in these establishments. I did not see anything in the act that would warrant looking into this problem. In all fairness to the people, the constituents, the residents of the area and in all fairness to the commission that apparently made the decision to hold this activity on Sunday, we really have no mandate to look into this.

I add further that there is a private member's bill, Bill 175, which I mentioned earlier, presented by the member for Beaches-Woodbine. I believe first reading was December 11, 1986. The bill has not gone for second reading. I do not recall it being debated on second reading in the House. I am sure that the member for Beaches-Woodbine would agree with me that she has no intention in any way of circumventing the legislative process for private bills. Normally, even if a bill goes to committee, it is usually done after second reading except in some unusual circumstances. Most bills do not even have the privilege of going to a committee. That would be done then. I would not want the discussion of this issue at a select committee to be a forum for a private bill that may, in a major way, address the issue and in fact would make the bill come into a committee without having even gone to second reading.

The bill itself and Ms. Bryden's bill refers to an amendment, but the act referred to in the private bill is the Racing Commission Act, certainly not the Retail Business Holidays Act. These are only some of the arguments I want to put forward in the hope that we make a motion that we sympathize with these concerns but have no mandate as a committee to allow or to hold public hearings or discussions of this problem.

Mr. Philip: I would like to argue quite contrary to Mr. Shymko. First, a committee does have the power to set its agenda and to deal with those matters it considers relevant to its hearings or to matters brought before it. We have already dealt with recreation and recreation activities.

Indeed, we have had a presentation from the African Lion Safari about the effects of Sunday openings on its business.

We have dealt with the controversy of whether a bookstore is a legitimate recreation activity and therefore should have the same kind of exemption as those bookstores that sell pornography or have strippers or whatever. This is one of the areas that a number of members of all parties said they are concerned about and may want to address in their report.

The matter of recreation is before the committee and will in some way or another be dealt with in our report. I can sympathize with Mr. Shymko's concern about not wanting hearings, but I suggest that there is no need for hearings on this issue. Essentially, the city of Toronto is asking for the same power to regulate a race track that is selling a commodity, namely, a form of recreation, in the same way it already has the right under other statutes to regulate pool halls, taverns and other forms of entertainment facilities that sell a product, namely, entertainment.

For us somehow to take a legalistic approach and say we are going to ignore a real problem when in fact we are already dealing with another analogous problem and will be commenting on it is, I think, simply running away from something that is clearly within the jurisdiction of the committee, and I do not think the public is going to buy that kind of doubletalk.

I do not want to deal with the merits or demerits of the issue of whether the city of Toronto should have that power or whether we recommend it or do not recommend it. I am saying, though, that at the very least we should allow that to be put on the agenda and that we deal with that request by the mayor of Toronto or by the council of Toronto in the report it presented before the committee.

We may decide not to go along with the request. We may decide to go along with it. But it is legitimately before the committee and it should be dealt with. I hope other members may deal with that issue of whether it is a legitimate topic and not the merits or demerits of the request.

Ms. Bryden: I support what my colleague has said. In my opinion, this committee definitely has a mandate to deal with the aspects of how retail business openings or closings affect a community and affect amusements, which are exempt, but also how it affects the business of selling the opportunity to place bets legally, which is something that is carried on at racetracks alone. Racetracks are somewhat unique in this sense that they are both an amusement and carry on a business.

However, this is something we can debate in committee if it is brought before us. I could spend a great deal of time documenting to you the impact of the beginning of Sunday racing in 1987 on the community in which I live. Of course, it was in response to the tremendous effect on that community. It is virtually destroying family life in the area adjacent to the racetrack and is destroying access to all other recreational activities on Sundays in the whole area.

There is a great deal of money invested by the city of Toronto in these activities. People from all over the city come to the Beaches for picnics and enjoying the sand and the swimming, the yachting, the bicycling and so on. The impact is so great that that is why I was led to bring in my private member's bill to ban Sunday racing at Greenwood only.



Of course, as a provincial committee, we would have to look at the issue in context for all racetracks, but it is still possible to have special exemptions or special conditions in the act, if we did cover the act, for Greenwood Race Track, because of the fact it is unique among all racetracks in the province in the sense of being in the heart of a very large, urban, residential area.

I will not take your time to tell you how it has affected the community, although I am sure that I have a documented list. I have had many petitions presented in the House, I think close to 1,000 sheets of signed petitions, against Sunday racing because of the effect on the community as a whole and because of the effect on traffic congestion and other things.

Since my private member's bill was introduced, it has become clear that the city of Toronto feels the effects are so great that it would like the opportunity either to ban Sunday racing or to regulate the times and hours of racing, both on Sundays and weekdays. It would like that power and I think that is the logical way to deal with this problem. Then they would have the public hearings in order to find out what sort of regulations should be put into effect for Greenwood Race Track alone. That would not require provincial legislation, except to give the city that power.

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They could then be able to get rid of the urban tow-away zone, which is one of the chief problems that disrupts family life in that area. It prevents people from having their family or friends over on Sundays. They could get rid of all the extra police protection and they could protect their investments in all the recreational facilities in the east end whose access is being denied by the effect of Sunday racing. I think it is very much a subject that this committee should consider, particularly the proposal that the city of Toronto should be given the power to regulate both days of racing and hours of racing.

They have actually drafted a bill that they are prepared to bring forward as a private bill to obtain this power from the province. They have also discussed with the Attorney General (Mr. Scott) and the Minister of Consumer and Commercial Relations (Mr. Kwinter) the possibility of the province bringing forward legislation on its own, which would be a much quicker process than going through the private bill process.

Since the situation is a matter of extreme chaos right now in the traffic congestion, that would be the preferred route and that is another reason for this committee dealing with it, possibly to make a recommendation to the provincial government to bring in its own enabling legislation to give the power to the city as soon as possible.

Mr. Philip: I have a motion that I provided you with. I can remember the motion and, therefore, I will give it to you and if you want, you can have it re-read, since it has been provided to the clerk.

I move that the topic of municipal regulation of racetrack recreation, as contained in the presentation by the city of Toronto, be considered a matter for consideration by this committee.

Would you like to read the motion and see how my memory serves me?

Mr. Chairman: Mr. Philip moves that the matter of regulation of racetrack recreation, as contained in the presentation by the city of Toronto, be a topic for consideration by this committee.

Is that satisfactory? Okay. That motion has been made. We now know specifically what we are discussing. I have one more name on the list. Mr. Callahan.

Mr. Callahan: Very briefly, it is certainly the role of MPPs to bring forward concerns from their constituents. The big problem seems to be parking. I know Ms. Bryden was not here during some of the presentations, but Mr. Philip was. It is my recollection that one of the people who addressed us indicated that some of these people who come down to partake in the betting procedure, probably before rather than after, drop into some of these stores.

Quite apart from that, it seems to me that the route to take is before the private bills committee. I happen to know the chairman and he is eminently fair. That way you give the opportunity for both sides to be heard since, at this point, we have really only heard from two people from the Beaches giving one side of it. As a matter of fairness--and the purpose of the private bills committee is to give the opportunity for other people to be heard as well--you being an eminently fair person, I expect you feel that would be the forum in which it should take place, rather than within the terms of the report. So I have to vote against the inclusion.

Mr. Reville: I have only one modest argument to make, that is, that the city of Toronto brought this item to our attention on the advice of the Attorney General of Ontario.

Mr. Shymko: Is there a copy of the letter?

Mr. Reville: Their report, which I am sure you read yesterday, indicates that in seeking to solve this problem, they met with the Minister of Consumer and Commercial Relations and the Attorney General, who suggested that the first approach should be to this committee, and that if this committee, in its wisdom, declined to deal with the matter, then there were other approaches that might be taken.

I would like to support, obviously, Mr. Philip's motion that we do consider whether this committee wants to make some kind of a recommendation that a municipality have the option of deciding whether racetracks should be open or closed. I am not prejudging the situation at all. I am just suggesting that it should be an item for discussion by us, and people can put forward their views at that time. One of the things that is clear is that we have an inadequate amount of information about racetracks all over Ontario. Perhaps that would be why we would think that municipalities should be in a position to decide how they want to deal with it. That is my argument.

Mr. Polsinelli: Put the question.

Mr. Chairman: Any other speakers?

Ms. Bryden: I would like to respond briefly to Mr. Callahan that the private bill approach does allow for both sides to be heard and so on, but it is a very slow process and the situation is very urgent. As the mayor of Toronto has indicated to you, they are prepared to act immediately as soon as they have the authority to control this situation, and they feel that it is a matter of great urgency.

I do not think it would hurt for this committee to consider the necessity for municipal regulation, yes or no. Then, of course, it will be up to the province to decide whether to bring in the enabling legislation itself

or to wait for a private bill from the city. It is worth us discussing whether the principle of enabling legislation for municipalities should be considered, and it will be a provincial matter, whichever way it comes to the province.

Mr. Philip: May I make one last comment, with which I think Mr. Callahan will agree? I think Mr. Callahan has brought out the legitimate point that it would be irresponsible if some decision were taken on this without hearing all sides. All that my motion is suggesting is that we deal with whether the municipality have the authority to do the regulation.

Obviously, if the municipality did have the authority, as the mayor has indicated, there are sides to it, and there would be adequate hearings by the municipality. I just do not think this particular matter should necessarily be entirely regulated by the province. All we are saying is should the topic be before us of whether we would give the municipality that right of regulation, I do not think that the committee should deal with whether it is a good idea for Greenwood to be open on Sundays. That is not contained in my motion, and it is not envisioned by me. The sole issue is whether Art Eggleton and the city council are right in saying they should have some authority over it, and that is the issue I am asking we consider.

Mr. Chairman: I have had a request to put the question. I will read the motion again so that everybody is clear about what they are voting on.

Mr. Philip moves that the matter of regulation of racetrack recreation, as contained in the presentation by the city of Toronto, be a topic for consideration by this committee.

All in favour of that motion? Opposed?

Motion negatived.

Mr. Reville: In view of the fact that the motion has failed, I wonder if I could move a motion that will allow the city of Toronto to carry on with their next step. Could I move that the committee advise the city of Toronto that it will not be dealing with the question of the Greenwood Race Track? Then they can take whatever action they wish.

Mr. Chairman: In fairness, I do not know that the committee needs to do that formally. Our deliberations are a matter of record.

Mr. Shymko: If there was a request in a letter formally to you, you should answer that, Mr. Chairman.

Mr. Chairman: Are you suggesting that the clerk or someone should formally advise the city?

Mr. Reville: In terms of fairness, if they believe we are dealing with it, then they do not take their next action, and the next action which was suggested--

Mr. Chairman: I do not think a motion is necessary. I will direct the clerk to advise the city accordingly.

Mr. Philip: Mr. Chairman, as is my right, I am calling that there be a recorded vote on my motion.

Mr. Shymko: It is too late now.



Mr. Chairman: We will have a recorded vote in response to the request.

Mr. Polsinelli: The question is out of order. First you have everybody vote, and then you ask the question? Do not give me that stuff.

Mr. Philip: Oh no, you do not. Let us check the rules.

Mr. Shymko: I am sick and tired of this.

Mr. Chairman: I am ruling that it is not too late. He is entitled to his recorded vote, and I ask again, therefore, those in favour of the motion?

Mr. Polsinelli: On a point of order, Mr. Chairman: The vote has been taken. It has been lost. Some of the members have left and it is improper at this point to retake the vote.

Mr. Philip: I asked for a recorded vote because the Conservatives do not want to be on record, I suppose, as being opposed to the wishes of the people in the Beaches-Woodbine. If that is their political decision and they want to take that route, fine.

Mr. Shymko: Mr. Chairman, I object to these remarks. I think my comments were quite fair. I was not political in any way, nor was Mr. Callahan as a member of the Liberal Party. I really do not accept and object to the statements of politicizing once again, as is always the case and the tendency of certain members in this committee, unfortunately.

Mr. Chairman: Order. I have ruled that the request by the member is in order.

I therefore ask those who are in favour of the motion to please indicate: Mr. Philip, Mr. Reville.

Those opposed to the motion, please? Mr. Callahan, Mr. Knight, Mr. Shymko.

Mr. Polsinelli?

Mr. Polsinelli: Mr. Chairman, I think what you are doing is completely out of order.

Ms. Bryden: Mr. Chairman, can I vote? As a substitute member of the committee, do I have a vote?

Mr. Chairman: I will entertain a motion for adjournment, please.

Mr. Polsinelli: It is already on the floor.

Mr. Chairman: All those in favour? Opposed? Carried.

The committee adjourned at 12:51 p.m.

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